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Scott Ellis

Clerk Of Courts, Brevard County

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INDEX TO DECLARATION OF CONDOMINIUM

OF

HC ISLAND POINTE, A CONDOMINIUM

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**EXHIBIT 1 TO THE PROSPECTUS
DECLARATION OF CONDOMINIUM**

OF

ISLAND POINTE, A CONDOMINIUM

TOWNE DEVELOPMENT OF ISLAND POINTE, INC., a Florida corporation (hereinafter called "Developer"), does hereby make, declare, and establish this Declaration of Condominium (hereinafter sometimes called "this Declaration"), as and for a plan of condominium Unit Ownership for ISLAND POINTE, A CONDOMINIUM (hereinafter, the "Condominium"), consisting of real property and improvements thereon as hereinafter described.

All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall rule perpetually unless terminated as provided herein and shall be binding upon all parties or persons subsequently owning property in said Condominium, and in consideration of receiving and by acceptance of a conveyance, grant, devise, lease, or mortgage, all grantees, devisees, leasees, and assigns and all parties claiming by, through or under such persons, agree to be bound by all provisions hereof. Both the burdens imposed and the benefits shall run with each unit and the interests in the common property as herein defined.

I

ESTABLISHMENT OF CONDOMINIUM

Developer is the owner of the fee simple title to that certain real property situated in Merritt Island, County of Brevard, and State of Florida, which property is more particularly described as follows; to-wit:

SEE SHEET 2 OF EXHIBIT "A" ATTACHED HERETO AND INCORPORATED
HEREIN BY REFERENCE AND MADE A PART HEREOF FOR LEGAL
DESCRIPTION

The Condominium consists of one (1) building containing a total of forty-nine (49) residential units and other appurtenant improvements as hereinafter described. Building 1A is an eight (8) story building containing forty-nine (49) units and forty-nine (49) enclosed garage parking spaces. In addition, there are eighty-four (84) parking spaces located on the Condominium property. The enclosed garage parking spaces are located on the first floor. Floors 2 through 8 inclusive, each contain seven (7) units per floor. There are fourteen (14) Type "A" units, each of which has three (3) bedrooms, two (2) baths and contains approximately 2,916 square feet, including balconies. There are twenty-eight (28) Type "B" units, each of which has three (3) bedrooms, two (2) baths and contains approximately 2,304 square feet, including balconies. There are seven (7) Type "C" units each of which has three (3) bedrooms, two (2) baths and contains approximately 2,366 square feet, including balconies. The graphic description of each floor is shown on Sheets 6 through 13 inclusive, of Exhibit A to this Declaration. Developer reserves the right to designate the garages for the exclusive use of the unit owner ("Unit Owner"), and upon such designation, the garages shall become limited common elements. For legal description, survey and plot plan of the Condominium, see Exhibit "A" to this Declaration. Developer estimates Phase IA of the Condominium will be completed on or before February 28, 2005.

The provisions of the Florida Condominium Act are hereby adopted herein by express reference and shall govern the Condominium and the rights, duties and responsibilities of Unit Owners hereof, except where permissive variances therefrom appear in this Declaration, the By-Laws and the Articles of Incorporation of ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC., a Florida not for profit corporation (the "Association").



The definitions contained in the Florida Condominium Act shall be the definition of like terms as used in this Declaration and exhibits hereto unless other definitions are specifically set forth.

II

SURVEY AND DESCRIPTION OF IMPROVEMENTS

A. Attached hereto and made a part hereof, and marked Exhibit "A" consisting of sixteen (16) pages and Exhibit "B", consisting of eight (8) pages, are boundary surveys of the entire premises of which Subphases IA, IB, and IC of Phase I and Phase II are a part, boundary survey of each phase, a graphic plot plan of the overall planned improvements, and graphic descriptions of the improvements in which units are located, and plot plans thereof, identifying the units, the common elements and the limited common elements, and their respective locations and dimensions.

Said surveys, graphic descriptions and plot plans were prepared by:

Allen Engineering, Inc.
By: Robert M. Salmon
Professional Land Surveyor
No. 4262, State of Florida

and have been certified in the manner required by the Florida Condominium Act. Each unit is identified and designated by a specific number. No unit bears the same numerical designation as any other unit. The specific numbers identifying each unit are listed on Sheets 7 through 13 of Exhibit "A" attached to this Declaration.

The units to be located on the lands described in Exhibit "B", contemplated as constituting all phases, are not substantially completed but are merely proposed. The time period within which the units must be completed is within twenty-four (24) months from the date of recording this Declaration. All phases must be added to the Condominium within seven (7) years from the date of recording of this Declaration. Developer is not obligated to construct any phases other than Subphase IA of Phase I.

Without the consent of any Unit Owner, Developer, or its successor in title to all or any portion of Subphase IB of Phase I shown on the plans referred to in the exhibits hereto, may at any time amend this Declaration so as to subject to the provisions of the Florida Condominium Act, all of said Subphase IB of Phase I on which will be constructed the Subphase IB of Phase I improvements identified in the exhibits hereto, and from and after the recording of such amendment or amendments, the Condominium shall include Subphase IA of Phase I.

Without the consent of any Unit Owner, Developer, or its successor in title to all or any portion of Subphase IC of Phase I shown on the plans referred to in the exhibits hereto, may at any time amend this Declaration so as to subject to the provisions of the Florida Condominium Act, all of said Subphase IC of Phase I on which will be constructed the Subphase IC of Phase I improvements identified in the exhibits hereto, and from and after the recording of such amendment or amendments, the Condominium shall include Subphase IC of Phase I.

Without the consent of any Unit Owner, Developer, or its successor in title to all or any portion of Phase II shown on the plans referred to in the exhibits hereto, may at any time amend this Declaration so as to subject to the provisions of the Florida Condominium Act, all of said Phase II on which will be constructed the Phase II improvements identified in the exhibits hereto, and from and after the recording of such amendment or amendments, the Condominium shall include Phase II.

The above described phases may be added to the Condominium in any order, in Developer's sole discretion.



Developer intends to construct a maximum of 187 units if all phases are added to the Condominium.

Developer, or any successor in title, shall have the right, prior to the execution and recording of the respective amendments, to change the size, layout and location, and to make non-material changes in the legal description of a phase. No amendment shall be effective until recorded in the Public Records of Brevard County.

BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM.

Developer's current plan is to construct one residential building in each of the Subphases of Phase I and in Phase II. The maximum number of Residential buildings in any future subphase or phase is six (6) and the minimum number of Residential buildings is one (1). Residential buildings and units which may be added to the Condominium may be substantially different from the buildings and units in Subphase IA of Phase I of the Condominium. Developer may alter the size, location and layout of any unit in Subphases IB or IC of Phase I or Phase II, inclusive of the Condominium. The minimum size of any unit shall be 600 square feet, including patios or balconies and the maximum size of any unit shall be 6000 square feet, including patios or balconies, in Subphases IB and IC of Phase I, and Phase II. The maximum number of bedrooms in a unit is six (6) and the minimum number is one (1). The maximum number of bathrooms in a unit is six (6) and the minimum number is one (1). Each of these buildings will contain a minimum of one (1) residential floor, although each building may contain more residential floors depending upon the number of units and the type of units Developer may build. Developer has no obligation to construct or add Subphases IB or IC of Phase I or Phase II to the Condominium.

Each unit's percentage ownership in the common elements as each phase is added is determined by a fraction, the numerator of which is one and the denominator of which is the total number of units submitted to the Condominium. This fraction will determine each unit's proportion of ownership in the common elements, manner of sharing common expenses and ownership of the common surplus as additional units are added to the Condominium by the addition of additional phases, if any.

The maximum and minimum number of units in Subphase IA of Phase I is forty-nine (49) units. In each of Subphase IA, IB and IC of Phase I and Phase II, the maximum number of units is eighty (80) units and the minimum number of units is ten (10).

Unless and until a further amendment to this Declaration is recorded adding to the Condominium another phase, each Subphase IA of Phase I Unit Owner will own an undivided one forty-ninth (1/49) share in the common elements. Assuming all phases (and subphases) are added to the Condominium, the phases (and subphases) are added in order, and the maximum number of units are added in each phase then the following statements will be true. If Subphase IB of Phase I is added to the Condominium, each Unit Owner in Subphases IA and IB in Phase I will own an undivided one-eighty-third (1/83) share in the common elements. If Subphase IC of Phase I is added to the Condominium, each Unit Owner in Subphases IA, IB and IC of Phase I will own an undivided one hundred-seventh (1/107) share in the common elements. If Phase II is added to the Condominium, each Unit Owner in Subphases IA, IB and IC of Phase I and Phase II will own an undivided one hundred eighty-seventh (1/187) share in the common elements. Developer may add the Phases (and Subphases) to the Condominium in any order that it elects in its sole discretion.

Initially, there shall be a total of forty-nine (49) votes to be cast by the Unit Owners. Assuming all phases and subphases are added to the Condominium, the phases and subphases are added in order, and the maximum number of units are added in each phase (or subphase) then the following statements will be true. If Subphase IB of Phase I is added to the Condominium, there shall be a total of eighty-three (83) votes to be cast by the Unit Owners. If Subphase IC of Phase I is added to the Condominium, there shall be a total of



one hundred-seven (107) votes to be cast by the Unit Owners. If Phase II is added to the Condominium, there shall be a total of one hundred eighty-seven (187) votes to be cast by the Unit Owners. Each Unit Owner shall be entitled to cast one (1) vote as provided in Article VI of this Declaration. If Subphases IB and IC of Phase I or Phase II are not added as a part of the Condominium, the membership vote and ownership in the Association shall not be changed by the failure of Developer to add an additional phase, (or subphases) but shall be as provided in this paragraph. The recreational areas and facilities are described in Exhibits A and B attached hereto. See the Prospectus for a description of these areas and facilities. Developer reserves the right to expand the recreational facilities without the consent of the Unit Owners or the Association. Timeshare estates shall not be created with respect to units in any phase.

B.

(1) Developer does hereby establish and create for the benefit of each of Subphases IB and IC of Phase I and Phase II, inclusive, and does hereby give, grant and convey to each and every individual and business, or other entity hereafter owning any portion of Subphases IB and IC of Phase I and Phase II, inclusive, the following easements, licenses, rights and privileges:

(a) Right-of-way for ingress and egress, by vehicle or on foot, in, to, upon over and under the streets, driveways and walks in Subphase IA of Phase I (as shown on Sheet 1 of Exhibit "A" annexed hereto and as they may be built or relocated in the future), between the roadway bounding the Condominium and Subphases IB and IC of Phase I and Phase II, inclusive, for all purposes for which streets, driveways and walks are commonly used, including the transportation of construction materials for use in Subphases IB and IC of Phase I and Phase II, inclusive, and the Association shall maintain and repair all streets, driveways and walks in Subphase IA of Phase I.

(b) Rights to connect with, make use of underground utility lines, pipes, conduits, sewers and drainage lines which may from time to time exist in Subphase IA of Phase I (as the same may be from time to time relocated) all of which shall be maintained and repaired by the Association.

(c) The right to make use of such recreational facilities that are located in Subphase IA of Phase I (and Phase II, if constructed) non-exclusively with the owners from time to time of Subphases IA, IB and IC of Phase I and Phase II, inclusive, or any parts thereof, their tenants, and the immediate families of such tenants and their guests, who are residents in occupancy of units in Subphases IA, IB and IC of Phase I and Phase II, inclusive.

(2) The easements, licenses, rights and privileges established, created and granted by the provisions of this subparagraph B, shall be for the benefit of and restricted solely to the owners from time to time of Subphases IB and IC of Phase I and Phase II, or any parts thereof, their tenants, and the immediate families of such tenants and their guests who are residents in occupancy of units in Subphases IB and IC of Phase I and Phase II for the duration of their tenancies; but the same is not intended, nor shall it be construed as creating any rights in or for the benefit of the general public or any rights in or to any portion of Subphase IA of Phase I other than the driveways, walks, parking spaces, utility and drainage lines, sewers, conduits, wires and pipes.

(3) Subject to the provisions of Subparagraph IIC.(2) below, the Subphase IA of Phase I Unit Owners, and each of them, for themselves, their heirs, administrators, executors, successors and assigns (and/or the Association) shall through the Association, maintain and repair, at their sole cost and expense, those



portions of Subphase IA of Phase I which are subject to the easements, licenses, rights and privileges described in this subparagraph B. to this Declaration.

C.

(1) Developer does hereby establish and create, and does hereby give, grant and convey to each and every individual and business, or other entity hereafter owning any portion of Subphases IA, IB and IC of Phase I and Phase II, inclusive, those easements, licenses, rights and privileges, as are applicable to Subphases IA, IB and IC of Phase I and Phase II as follows:

(a) As appurtenant to and benefiting Subphase IA of Phase I.

(i) Right-of-way for ingress and egress, by vehicle or on foot in, to, upon, over and under the streets, driveways and walks in Subphases IB and IC of Phase I and Phase II, inclusive, when constructed (and as they may be built or relocated in the future), for all purposes for which streets, driveways and walks are commonly used; and

(ii) Rights to connect with, make use of underground utility lines, pipes, conduits, sewers and drainage lines which may from time to time exist in Subphases IB and IC of Phase I and Phase II, inclusive (as the same may be from time to time relocated); and

(b) As appurtenant to and benefiting Subphase IB of Phase I.

(i) Right-of-way for ingress and egress, by vehicle or on foot in, to, upon, over and under the streets, driveways and walks in Subphases IA and IC of Phase I and Phase II, inclusive, when constructed (and as they may be built or relocated in the future), for all purposes for which streets, driveways and walks are commonly used; and

(ii) Rights to connect with, make use of underground utility lines, pipes, conduits, sewers and drainage lines which may from time to time exist in Subphase IA and IC of Phase I and Phase II, inclusive (as the same may be from time to time relocated).

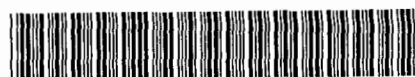
(c) As appurtenant to and benefiting Subphase IC of Phase I.

(i) Right-of-way for ingress and egress, by vehicle or on foot in, to, upon, over and under the streets, driveways and walks in Subphases IA and IB of Phase I and Phase II, inclusive, when constructed (and as they may be built or relocated in the future), for all purposes for which streets, driveways and walks are commonly used; and

(ii) Rights to connect with, make use of underground utility lines, pipes, conduits, sewers and drainage lines which may from time to time exist in Subphases IA and IB of Phase I and Phase II, inclusive (as the same may be from time to time relocated).

(d) As appurtenant to and benefiting Phase II.

(i) Right-of-way for ingress and egress, by vehicle or on foot in, to, upon, over and under the streets, driveways and walks in Subphases IA, IB and IC of Phase I when constructed (and as they may be built or relocated in the future), for all purposes for which streets, driveways and walks are commonly used; and



(ii) Rights to connect with, make use of underground utility lines, pipes, conduits, sewers and drainage lines which may from time to time exist in Subphases IA, IB and IC of Phase I (as the same may be from time to time relocated).

The Association shall maintain and repair the streets, driveways, walks, underground utility lines, pipes, conduits, sewers, drainage lines and the recreational facilities located in the common elements. The owners of phase land not added to the Condominium shall have a right to enforce the duty of the Association to maintain and repair such facilities as described herein.

(2) Unless and until Subphase IB and IC of Phase I and Phase II, inclusive, have been added to the Condominium, Developer or any successor in title to Subphase IA of Phase I, shall have the right to charge owners of Subphases IB and IC of Phase I and Phase II, inclusive, a fair and equitable fee to be shared with the owners of Subphase IA of Phase I until Subphases IB and IC of Phase I and Phase II, inclusive, are added to the Condominium, if ever, for the cost of maintaining and keeping in good order, condition and repair those recreational facilities, streets, driveways and walks as have been constructed in Subphase IA of Phase I. The owner of any phase land not submitted to the Condominium not paying the fee when due shall lose the privilege of using the recreational facilities, streets, driveways and walks until his account is brought current. This paragraph shall not apply to any Unit Owner who may not be denied the privilege of using the recreational facilities, streets, driveways and walks for failure to pay maintenance fees under the Florida Condominium Act.

(3) The easements, licenses, rights and privileges established, created and granted by Developer pursuant to the provisions of this subparagraph C shall be for the benefit of, and restricted solely to, the owners from time to time of each of the phases so benefited, or any parts thereof, their tenants, and the immediate families of such tenants and their guests, who are residents in occupancy of units in each of the phases so benefited, for the duration of their tenancies, but the same is not intended, nor shall it be construed as creating any rights in or for the benefit of the general public or any rights in or to any portion of each phase (or subphase) other than as hereinabove provided in this subparagraph C.

D. In the event of a taking under the power of eminent domain of all or any part of Subphases IA, IB and IC of Phase I and/or Phase II, that portion of the award attributable to the value of any land within the phase so taken shall be payable only to the owner or owners in fee thereof, and no claim thereon shall be made by the owners of any phase, or parts thereof, not so taken, provided, however, the owners of any phase, or parts thereof, not so taken may file collateral claims with the condemning authority, over and above the value of the land in any phase so taken, to the extent of any damage suffered by a phase not taken resulting from the loss of the easements, licenses, rights and privileges so taken; and provided further, however, that the owners of the phase so taken, to the maximum extent possible, shall promptly repair and restore the remaining portion of the phase so taken and affected by said easements, licenses, rights and privileges as nearly as practicable to the condition they were in immediately prior to such taking and without contribution from the owners of those phases not so taken, but if the net proceeds of such award are insufficient to pay the costs of such restoration and repair, the owner or owners of the phases not so taken shall contribute the new awards, if any, received by them to the extent necessary to make up such deficiency. The easements, licenses, rights and privileges affecting the land in those phases made subject to a taking shall remain in full force and effect on the remaining portion of the phase, as repaired and restored. The provisions of this subparagraph D do not control, and shall be wholly inapplicable to, the rights of any Unit Owners in any phase (or subphase) that has been added to the Condominium by amendment to this Declaration. Once a phase (or subphase) is added to the Condominium by amendment to this Declaration, all Unit Owners will own an undivided share in the additional common elements as set forth



in Article II of this Declaration. Therefore, any award for a taking of any portion of the phase land that has been submitted to Condominium through the power of eminent domain, shall be owned by all Unit Owners in their undivided interest as set forth in this Declaration.

E. Each of the easements, covenants, restrictions, benefits and obligations hereunder shall be perpetual and run with the land. The provisions of this Article II may not be abrogated, modified or rescinded in whole or in part other than with the consent of the owner or owners of Subphases IA, IB and IC of Phase I and/or Phase II and of all mortgagees under any mortgages covering all or any part of Subphases IA, IB and IC of Phase I and/or Phase II evidenced by a declaration in writing, executed and acknowledged by all said owners and mortgagees and duly recorded in the Public Records of Brevard County. However, in the event all phases shall be included in the Condominium, the provisions of subparagraphs B, C and D of this Article II shall become null and void, just as if never entered into and without the necessity for the execution of any further documents, whereupon the common elements of the Condominium shall expressly include within its meaning, in addition to the items as listed in the Florida Condominium Act and those items heretofore set forth in this Declaration, non-exclusive cross-easements for ingress, egress, and the installation and maintenance, repair and replacement of all utility and drainage lines serving any of the units of the Condominium, but the provisions contained in subparagraph A of this Article II shall not be so rendered null and void, and, to the extent applicable, shall remain in full force and effect.

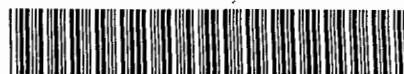
III

OWNERSHIP OF UNITS AND APPURTENANT SHARE IN COMMON ELEMENTS AND COMMON SURPLUS, AND SHARE OF COMMON EXPENSES

Each unit shall be conveyed as an individual property capable of independent use and fee simple ownership and the owner or owners of each unit shall own, as an appurtenance to the ownership of each said unit, an undivided one-forty-ninth (1/49) share of all common elements of the Condominium, which includes, but is not limited to, ground support area, walkways, yard area, parking areas, foundations, etc., and substantial portions of the exterior walls, floors, ceiling and walls between units. The space within any of the units and common elements shall not be further subdivided. Any undivided interest in the common property is hereby declared to be appurtenant to each unit and such undivided interest shall not be separate from the unit and such interest shall be deemed conveyed, devised, encumbered or otherwise included with the unit even though such interest is not expressly mentioned or described in the conveyance, or other instrument. Any instrument, whether a conveyance, mortgage or otherwise, which describes only a portion of the space within any unit shall be deemed to describe the entire unit owned by the person executing such instrument and an undivided one-forty-ninth (1/49) interest in all common elements of the Condominium.

Developer hereby, and each subsequent owner of any interest in a unit and in the common elements, by acceptance of a conveyance or any instrument transferring an interest, waives the right of partition of any interest in the common elements under the laws of the State of Florida as it exists now or hereafter until this Condominium is terminated according to the provisions hereof or by law. Any owner may freely convey an interest in a unit together with an undivided interest in the common elements subject to the provisions of this Declaration. Developer hereby reserves the right to remove any party walls between any units owned by Developer in order that the said units may be used together as one (1) integral unit. All assessments and voting rights, however, shall be calculated as if such units were as originally designated on the exhibits attached to this Declaration, notwithstanding the fact that the several units are used as one.

All owners of units shall have as an appurtenance to their units a perpetual easement of ingress to and egress from their units over streets, walks, terraces and other common elements from and to the public highways bounding the Condominium property, and a perpetual right or easement, in common with all persons owning an interest in any unit in the Condominium property, to the use



and enjoyment of all public portions of the buildings and to other common facilities (including but not limited to facilities as they now exist) located in the common elements.

All property covered by the exhibits hereto shall be subject to a perpetual easement for encroachments which now exist or hereafter may exist caused by settlement or movement of the buildings, and such encroachments shall be permitted to remain undisturbed and such easement shall continue until such encroachment no longer exists.

All units and the common elements shall be subject to a perpetual easement in gross granted to the Association, and its successors, for ingress and egress for the purpose of having its employees and agents perform all obligations and duties of the Association set forth herein. The Association shall have the right to grant utility easements under, through or over the common elements and such other easements as the Board, in its sole discretion, shall decide. The consent of the Unit Owners to the granting of any such easement shall not be required.

The common expenses shall be shared and the common surplus shall be owned in the same proportion as each such Unit Owner's share of the ownership of the common elements, that is one-forty-ninth (1/49).

IV

UNIT BOUNDARIES, COMMON ELEMENTS, AND LIMITED COMMON ELEMENTS

The units of the Condominium consist of that volume of space which is contained within the decorated or finished exposed interior surfaces of the perimeter walls, floors (excluding carpeting and other floor coverings) and ceilings of the units. The boundaries of the units are more specifically shown in Exhibit "A", attached hereto. The dark solid lines on the floor plans hereinabove mentioned represent the perimetrical boundaries of the units, while the upper and lower boundaries of the units, relating to the elevations of the units, are shown in notes on said plan.

There are limited common elements appurtenant to each of the units in the Condominium, as shown and reflected by the floor and plot plans. These limited common elements are reserved for the use of the units appurtenant thereto, to the exclusion of other units, and there shall pass with a unit, as an appurtenance thereto, the exclusive right to use the limited common elements so appurtenant. In addition, there are forty-nine (49) enclosed garage parking spaces as shown on Sheet 6 of Exhibit "A". These garage parking spaces are common elements for which Developer reserves the right to designate the unit which shall be entitled to exclusive use of the garage parking. After such designation the garage parking spaces shall be appurtenant to the unit and shall become a limited common element.

Unit Owners have the right to transfer garages to other units or Unit Owners pursuant to Section 718.106(2)(b), Florida Statutes. The transfer will be subject to rules promulgated by the Association.

Any air conditioning and/or heating equipment which exclusively services a unit shall be a limited common element appurtenant to the Unit it services. The common elements of the Condominium unit consist of all of the real property, improvements and facilities of the Condominium other than the units and the limited common elements as the same are hereinabove defined, and shall include easements through the units for conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility services to the units, limited common elements and common elements and easements of support in every portion of a unit which contributes to the support of improvements and shall further include all personal property held and maintained for the joint use and enjoyment of all the Unit Owners.

There are located on the common elements of the Condominium property swale areas for the purpose of water retention and these areas are to be perpetually maintained by the Association so that they will continue to function as water retention areas.



V.

**ADMINISTRATION OF CONDOMINIUM BY
CONDOMINIUM ASSOCIATION, INC.**

The operation and management of the Condominium shall be administered by the Association.

The Association shall make available to Unit Owners, lenders and the holders and insurers of the first mortgage on any unit, current copies of this Declaration, the By-Laws and other rules governing the Condominium, and other books, records and financial statements of the Association. The Association also shall be required to make available to prospective purchasers current copies of this Declaration, the By-Laws, other rules governing the Condominium, and the most recent annual audited financial statement, if such is prepared. "Available" shall at least mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

The Association, upon written request from any institutional lenders which have an interest or prospective interest in the Condominium, shall furnish within a reasonable time the financial report of the Association required by Section 718.111(13), Florida Statutes, for the immediately preceding fiscal year.

The Association shall have all of the powers and duties set forth in the Florida Condominium Act and, where not inconsistent therewith, those powers and duties set forth in this Declaration, the Articles of Incorporation and the By-Laws of the Association. True and correct copies of the Articles of Incorporation and the By-Laws are attached hereto, made a part hereof, and marked Exhibit "C" and Exhibit "D", respectively.

VI.

MEMBERSHIP AND VOTING RIGHTS

Developer and all persons hereafter owning a vested present interest in the fee title to any one of the units shown on the exhibits hereto and which interest is evidenced by recordation of a proper instrument in the Public Records of Brevard County, Florida, shall automatically be members and their memberships shall automatically terminate when they no longer own such interest.

There shall be a total of forty-nine (49) votes to be cast by the Unit Owners. Such votes shall be apportioned and cast as follows: each Unit Owner (designated as such on the exhibits attached to this Declaration) shall be entitled to cast one (1) vote. Where a unit is owned by a corporation, partnership or other legal entity or by more than one (1) person, all the owners thereof shall be collectively entitled to the vote assigned to such unit and such owners shall, in writing, designate an individual who shall be entitled to cast the vote on behalf of the owners of such unit of which he is a part until such authorization shall have been changed in writing. The term, "owner," as used herein, shall be deemed to include Developer.

All of the affairs, policies, regulations and property of the Association shall be controlled and governed by the Board of Administration of the Association (hereinafter, the "Board" or "Board of Administration") who are all to be elected annually by the members entitled to vote, as provided in the By-Laws of the Association. Each director shall be the owner of a unit (or a partial owner of a unit where such unit is owned by more than one (1) individual, or if a unit is owned by a corporation, including Developer, any duly elected officer or officers of an owner corporation may be elected a director or directors).

The owners shall place members on the Board of Administration in accordance with the schedule as follows: when Unit Owners other than Developer own fifteen percent (15%) or more of the units in a Condominium that will be operated ultimately by an Association, the Unit Owners shall be entitled to elect not less than one-third (1/3) of the members of the Board of Administration. Unit Owners other than Developer are entitled to elect not less than a majority of the members of the Board of Administration: (a) three years after fifty (50%) percent of the



units that will be operated ultimately by the Association have been conveyed to the purchasers; (b) three (3) months after ninety (90%) percent of the units that will be operated ultimately by the Association have been conveyed to purchasers; (c) when all the units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by Developer in the ordinary course of business; (d) when some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Developer in the ordinary course of business, or (e) seven years after recordation of this Declaration, or in the case of an association which may ultimately operate more than one condominium, seven years after recordation of this Declaration for the first condominium it operates, or in the case of an association operating a phase condominium created pursuant to Section 718.403, Florida Statutes, seven years after recordation of this Declaration creating the initial phase, whichever shall occur first. Developer is entitled to elect or appoint at least one member of the Board of Administration as long as Developer holds for sale in the ordinary course of business at least five (5%) percent of the units operated by the Association. Following the time Developer relinquishes control of the Association, Developer may exercise the right to vote any Developer-owned units in the same manner as any other Unit Owner except for purposes of re-acquiring control of the Association or selecting the majority members of the Board of Administration.

Developer reserves the right to transfer control of the Association to Unit Owners other than Developer at any time, in its sole discretion. The Unit Owners shall take control of the Association if Developer so elects prior to the time stated in the above schedule.

VII.

COMMON EXPENSES, ASSESSMENTS, COLLECTION, LIEN AND ENFORCEMENT LIMITATIONS

The Board of Administration shall propose annual budgets in advance for each fiscal year which shall contain estimates of the cost of performing the functions of the Association, including but not limited to the common expense budget, which shall include, but not be limited to, the estimated amounts necessary for maintenance, and operation of common elements and limited common elements, landscaping, streets and walkways, office expenses, utility services, replacement and operating reserve, casualty insurance, liability insurance, administration and salaries. Failure of the Board of Administration to include any item in the annual budget shall not preclude the Board of Administration from levying an additional assessment in any calendar year for which the budget has been projected. Each Unit Owner shall be liable for the payment to the Association of one-forty-ninth (1/49) of the common expenses as determined in said budget.

Common expenses include the expenses of the operation, maintenance, repair, or replacement of the common elements, costs of carrying out the powers and duties of the Association and any other expenses designated as common expense by the Condominium Act, this Declaration, the Articles of Incorporation, or the By-Laws of the Association. Common expenses also include reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications and security services, which are reasonably related to the general benefit of the Unit Owners, even if such expenses do not attach to the common elements or property of the Condominium. However, such common expenses must either have been services or items provided from the date the control of the Board of Administration was transferred from Developer to the Unit Owners or must be services or items provided for in the Condominium documents or the By-Laws.

After adoption of the budget and determination of the annual assessment per unit, as provided in the By-Laws, the Association shall assess such sum by promptly notifying all owners by delivering or mailing notice thereof to the voting member representing each unit at such member's most recent address as shown by the books and records of the Association. One-twelfth (1/12) of the annual assessment shall be due and payable in advance to the Association on the first (1st) day of each month.



Each initial Unit Owner other than Developer shall pay at closing a contribution in an amount at least equal to two monthly assessments for common expenses to the Condominium Working Capital Fund. The present monthly assessment is \$396.00 per month, therefore, the contribution is \$792.00. This contribution shall not be credited as advance maintenance payments for the unit.

Special assessments may be made by the Board of Administration from time to time to meet other needs or requirements of the Association in the operation and management of the Condominium and to provide for emergencies, repairs or replacements, and infrequently recurring items of maintenance. However, any special assessment in excess of five hundred dollars (\$500) which is not connected with an actual operating, managerial or maintenance expense of the Condominium, shall not be levied without the prior approval of the members owning a majority of the units in the Condominium.

The specific purpose or purposes of any special assessment approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each Unit Owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit towards future assessments.

The liability for any assessment or portion thereof may not be avoided by a Unit Owner or waived by reason of such Unit Owner's waiver of the use and enjoyment of any of the common elements of the Condominium or by abandonment of the unit for which the assessments are made.

The record owners of each unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, made by the Association and for all costs of collection of delinquent assessments. In the event assessments against a unit are not paid within thirty (30) days after their due date, the Association shall have the right to foreclose its lien for such assessments.

Assessments and installments on them that are unpaid for over thirty (30) days after due date shall bear interest at the maximum rate permitted by law per annum from the due date until paid. If a payment is more than ten (10) days late, the Association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of Twenty-Five and No/100 Dollars (\$25.00) or five percent (5%) of each installment of the assessment for each delinquent installment that the payment is late. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee shall not be subject to the provisions in Chapter 687 or Section 718.303(3), Florida Statutes.

The Association has a lien on each Condominium parcel for any unpaid assessments with interest and for reasonable attorney's fees incurred by the Association which are incident to the collection of the assessment for enforcement of the lien. Except as set forth below, the lien shall be effective from and shall relate back to the recording of the original Declaration. In the case of a lien on a parcel located in a phase condominium created pursuant to Section 718.403, Florida Statutes, the lien is effective from and shall relate back to the recording of this Declaration or amendment thereto creating the parcel. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien. The lien shall be recorded in the Public Records in the county in which the Condominium parcel is located and shall state the description of the Condominium parcel, the name of the record owner, the amount due, the due dates, and the name and address of the Association which is ISLAND POINTE CONDOMINIUM ASSOCIATION, INC., 460 Sail Lane, Merritt Island, Florida 32953. No such lien shall continue for a longer period than one year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs and attorney's fees which are due and



attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. A claim of lien must be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien. By recording a notice in substantially the following form, a Unit Owner or his agent or attorney may require the Association to enforce a recorded claim of lien against his Condominium parcel:

Notice of Contest of Lien

TO: ISLAND POINTE CONDOMINIUM ASSOCIATION OF
MERRITT ISLAND, INC.
460 Sail Lane
Merritt Island, FL 32953

You are notified that the undersigned contests the claim of lien filed by you on _____, 200__, and recorded in Official Records Book ____ at Page ____ of the Public Records of Brevard County, Florida, and that the time within which you may file suit to enforce your lien is limited to ninety (90) days from the date of service of this notice.

Executed this ___ day of _____, 200__.

Signed: _____

After service of a copy of the Notice of Contest of Lien, the Association shall have ninety (90) days in which to file an action to enforce the lien, and if the action is not filed within that ninety (90) day period, the lien is void.

The Association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage on real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or any action to recover a money judgment for unpaid assessments.

No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at his last known address; and upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided above. The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the unit is pending before any court; if the rights of the Association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the Unit Owner.

If the Unit Owner remains in possession of the unit after a foreclosure judgment has been entered, the court, in its discretion, may require the Unit Owner to pay a reasonable rental for the unit. If the unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party which does not prevail in the foreclosure action.

The Association has the power to purchase the Condominium parcel at the foreclosure sale and to hold, lease, mortgage or convey it.

A first mortgagee acquiring title to a Condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not during the period of its ownership of such parcel, whether or not



such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

Within fifteen (15) days after request by a Unit Owner or unit mortgagee, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the Unit Owner with respect to the Condominium parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid assessments against him with respect to his Condominium parcel. The holder of a mortgage or other lien of record has the same right as to any Condominium parcel upon which he has a lien.

Any first mortgagee may make use of any unit acquired as may facilitate its sale including, but not limited to, the showing of the property and neither the other Unit Owners nor the Association shall interfere with the sale of such units.

As to priority between the lien of a recorded mortgage and the lien for any assessment, the lien for assessment shall be subordinate and inferior to any recorded mortgage, unless the assessment is secured by a claim of lien which is recorded prior to the recording date of the mortgage.

Any person purchasing or encumbering a unit shall have the right to rely upon any statement made in writing by an officer of the Association regarding assessments against units which have already been made and which are due and payable to the Association, and the Association and the members shall be bound thereby.

In addition the Association may accelerate assessments of a Unit Owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.

A Unit Owner, regardless of how his title has been acquired, including a purchaser at a judicial sale, is liable for all assessments which come due while he is the Unit Owner. The grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of the transfer of title, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. A first mortgagee who acquires title to the unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. The first mortgagee shall pay the amount owed to the Association within thirty (30) days after transfer of title. The liability of a first mortgagee is limited to the lesser of six (6) months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or one percent of the original mortgage debt, whichever amount is less, provided the first mortgagee joined the Association as a defendant in the foreclosure action.

VIII.

INSURANCE COVERAGE, USE AND DISTRIBUTION OF PROCEEDS, REPAIR OR RECONSTRUCTION AFTER CASUALTY, CONDEMNATION

A. Type and Scope of Insurance Coverage Required

1. Insurance for Fire and Other Perils

The Association shall obtain, maintain, and pay the premiums upon, as a common expense, a "master" or "blanket" type policy of property insurance covering all of the common elements and limited common elements, (except land, foundation and excavation costs) including fixtures, to the extent they are part of the common elements of the Condominium, building service equipment and supplies, and other common personal property belonging to the Association. All references herein to

a "master" or "blanket" type policy of property insurance shall denote single entity condominium insurance coverage. Every hazard policy which is issued to protect a building shall provide that the word "building" wherever used in the policy including, but not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as they existed at the time the unit was initially conveyed if the original plans and specifications are not available. The word "building" does not include unit floor coverings, wall coverings, or ceiling coverings, and does not include the following equipment if it is located within a unit and the Unit Owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioner or heating equipment, water heaters, or built-in-cabinets. With respect to the coverage provided for by this paragraph, the Unit Owners shall be considered additional insureds under the policy.

The "master" policy shall be in an amount equal to one hundred (100%) percent of current replacement cost of the Condominium, exclusive of land, foundation, excavation and other items normally excluded from coverage, if available.

The policies may also be issued in the name of an authorized representative of the Association, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor trustee, as insured, for the use and benefit of the individual owners. Loss payable shall be in favor of the Association or insurance trustee, as a trustee, for each Unit Owner and each such owner's mortgagee. The Association or insurance trustee, if any, shall hold any proceeds of insurance in trust for the Unit Owner and their first mortgage holders, as their interests may appear. Each Unit Owner and each Unit Owner's mortgagee, if any, shall be beneficiaries of the policy in the fraction of common ownership set forth in this Declaration. Certificates of insurance shall be issued to each Unit Owner and mortgagee upon request. Such policies shall contain the standard mortgage clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the Brevard County area and shall name any holder of first mortgages on units within the Condominium. Such policies shall provide that they may not be canceled or substantially modified, without at least ten (10) days' prior written notice to the Association and to each holder of a first mortgage listed as a scheduled holder of a first mortgage in the policies.

Policies are unacceptable where: (i) under the terms of the insurance carrier's charter, by-laws, or policy, contributions or assessments may be made against borrowers, FEDERAL HOME LOAN MORTGAGE CORPORATION, hereinafter referred to as FHLMC, FEDERAL NATIONAL MORTGAGE ASSOCIATION, hereinafter referred to as FNMA, or the designee of FHLMC or FNMA; or (ii) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members, or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC, or the borrowers from collecting insurance proceeds.

The policies shall also provide for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Unit Owners individually; that the insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of such owners collectively; and that the policy is primary in the event the Unit Owner has other insurance covering the same loss.

The insurance policy shall afford, as a minimum, protection against the following:



- (a) Loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and
- (b) In the event the Condominium contains a steam boiler, loss or damage resulting from steam boiler equipment accidents in an amount not less than \$50,000.00 per accident per location (or such greater amount as deemed prudent based on the nature of the property); and
- (c) All other perils which are customarily covered with respect to Condominiums similar in construction, location and use, including all perils normally covered by the standard "all-risk" endorsement.

In addition, such policies shall include an "agreed amount endorsement" and, if available, an "inflation guard endorsement."

The Association shall provide, on an individual case basis, if required by the holder of first mortgages on individual units, construction code endorsements (such as a demolition cost endorsement, a contingent liability from operation of building laws endorsement and an increased cost of construction endorsement) if the Condominium is subject to a construction code provision which would become operative and require changes to undamaged portions of the building(s), thereby imposing significant costs in the event of partial destruction of the Condominium by an insured hazard.

2. Liability Insurance

The Association shall maintain comprehensive general liability insurance coverage covering all of the common elements, commercial space owned and leased by the Association, and public ways of the Condominium project. Coverage limits shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, and legal liability arising out of lawsuits related to employment contracts of the Association, if available at a reasonable cost. Such policies shall provide that they may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each holder of a first mortgage on any unit in the Condominium which is listed as a scheduled holder of a first mortgage in the insurance policy. The Association shall provide, if required by the holder of first mortgages on individual units, such coverage to include protection against such other risks as are customarily covered with respect to condominiums similar in construction, location and use, including but not limited to host liquor liability, employers liability insurance, contractual and all written contract insurance, and comprehensive automobile liability insurance.

3. Flood Insurance

If the Condominium is located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), the Association shall obtain and pay the premiums upon, as a common expense, a "master" or "blanket" policy of flood insurance on the buildings and any other property covered by the required form of policy (herein insurable property), in an amount deemed appropriate by the Association, as follows:

the lesser of: (a) the maximum coverage available under the NFIP for all buildings and other insurable property within the Condominium to the extent that such buildings and other insurable property are within an area having special



flood hazards; or (b) one hundred (100%) percent of current "replacement cost" of all buildings and other insurable property within such area. Due to circumstances existing in Florida at the present time, Developer believes that the maximum flood insurance coverage that is available is 80% of the full value of the buildings.

Such policy shall be in a form which meets the criteria set forth in the most current guidelines on the subject issued by the Federal Insurance Administrator.

4. Fidelity Bonds

Blanket fidelity bonds shall be maintained by the Association for all officers, directors, and employees of the Association and all other persons who control or disburse funds of the Association. If a management agent has the responsibility for handling or administering funds of the Association, the management agent shall maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums of all bonds required herein, except those maintained by the management agent, shall be paid by the Association as a common expense. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association, insurance trustee and the Federal National Mortgage Association, if applicable. Under no circumstances shall the principal sum of the bonds be less than the amount required by Section 718.111(11)(d), Florida Statutes.

5. Errors and Omissions Insurance

The Association shall obtain and maintain for the benefit of the officers and directors of the Association a policy or policies of insurance insuring the Association, its officers and directors against liability resulting from the errors and/or omissions of the officers and/or directors in the amount of no less than \$1,000,000.00. Said policy shall also contain an extended reporting period endorsement (a tail) for a two (2) year period.

6. Insurance Trustees; Power of Attorney

The Association may name as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any insurance trust agreement or any successor to such trustee (each of whom shall be referred to herein as "insurance trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose.

Each Unit Owner by acceptance of a deed conveying a unit in the Condominium to the Unit Owner hereby appoints the Association, or any insurance trustee or substitute insurance trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

7. Qualifications of Insurance Carriers

The Association shall use generally acceptable insurance carriers. Only those carriers meeting the specific requirements regarding the qualifications of



insurance carriers as set forth in the Federal National Mortgage Association Conventional Home Mortgage Selling Contract Supplements and the FHLMC Sellers Guide shall be used.

8. Condemnation and Total or Partial Loss or Destruction

The Association shall represent the Unit Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the common elements, or part thereof, by the condemning authority. Each Unit Owner hereby appoints the Association as attorney-in-fact for such purpose.

The Association may appoint a trustee to act on behalf of the Unit Owners, in carrying out the above functions, in lieu of the Association.

In the event of a taking or acquisition of part or all of the common elements by a Condominium authority, the award or proceeds of settlement shall be payable to the Association, or any trustee, to be held in trust for the Unit Owners and their first mortgage holders as their interests may appear.

In the event any loss, damage or destruction to the insured premises is not substantial (as such term "substantial" is hereinafter defined), and such loss, damage or destruction is replaced, repaired or restored with the Association's funds, the first mortgagees which are named as payees upon the draft issued by the insurance carrier shall endorse the draft and deliver the same to the Association, provided, however, that any repair and restoration on account of physical damage shall restore the improvements to substantially the same condition as existed prior to the casualty.

Substantial loss, damage or destruction as the term is herein used, shall mean any loss, damage or destruction sustained to the insured improvements which would require an expenditure of sums in excess of ten (10%) percent of the amount of coverage under the Association's casualty insurance policy or policies then existing, in order to restore, repair or reconstruct the loss, damage or destruction sustained.

In the event the Association chooses not to appoint an insurance trustee, any casualty insurance proceeds becoming due by reason of substantial loss, damage or destruction sustained to the Condominium improvements shall be payable to the Association and all first mortgagees which shall have been issued loss payable mortgagee endorsements, and such proceeds shall be made available to the first mortgagee which shall hold the greater number of mortgages encumbering the units in the Condominium, which proceeds shall be held in a construction fund to provide for the payment for all work, labor and materials to be furnished for the reconstruction, restoration and repair of the Condominium improvements. Disbursements from such construction fund shall be by usual and customary construction loan procedures. No fee whatsoever shall be charged by such first mortgagee for its services in the administration of the construction loan fund. Any sums remaining in the construction loan fund after the completion of the restoration, reconstruction and repair of the improvements and full payment therefor, shall be paid over to the Association and held for, and/or distributed to the Unit Owners in proportion to each Unit Owner's share of common surplus. If the insurance proceeds payable as the result of such casualty are not sufficient to pay the estimated costs of such restoration, repair and reconstruction, which estimate shall be made prior to proceeding with restoration, repair or reconstruction, the Association shall levy a special assessment against the Unit Owners for the amount of such insufficiency, and shall pay said sum into the aforesaid construction loan fund.



Notwithstanding which first mortgagee holds the greater number of mortgages encumbering the units, such mortgagees may agree between themselves as to which one shall administer the construction loan fund.

If the damage sustained to the improvements is less than substantial, as heretofore defined, the Board of Administration may determine that it is in the best interests of the Association to pay the insurance proceeds into a construction fund to be administered by an institutional first mortgagee as hereinabove provided. No institutional first mortgagee shall be required to cause such insurance proceeds to be made available to the Association prior to completion of any necessary restoration, repairs or reconstruction, unless arrangements are made by the Association to satisfactorily assure that such restoration, repairs and reconstruction shall be completed. Such assurances may consist of, without limitation: (1) obtaining a construction loan from other sources; (2) obtaining a binding contract with a contractor or contractors to perform the necessary restoration, repairs and reconstruction; and (3) the furnishing of performance and payment bonds.

Any restoration, repair or reconstruction made necessary through a casualty shall be commenced and completed as expeditiously as reasonably possible, and must substantially be in accordance with the plans and specifications for the construction of the original building. In no event shall any reconstruction or repair change the relative locations and approximate dimensions of the common elements and of any unit, unless an appropriate amendment be made to this Declaration.

Where physical damage has been sustained to the Condominium improvements and the insurance proceeds have not been paid into a construction loan fund as hereinabove more fully provided, and where restoration, repair or reconstruction has not been commenced, an institutional mortgagee who has commenced foreclosure proceedings upon a mortgage encumbering a unit, shall be entitled to receive that portion of the insurance proceeds apportioned to said unit in the same share as the share in the common elements appurtenant to said unit.

If substantial loss, damage or destruction shall be sustained to the condominium improvements, and at a special members' meeting called for such purpose, the owners of a majority of the units in the Condominium vote and agree in writing that the damaged property will not be repaired or reconstructed, the Condominium shall be terminated; provided, however, such termination will not be effective without the written consent of all first mortgagees holding mortgages encumbering units.

IX

RESPONSIBILITY FOR MAINTENANCE AND REPAIRS

A. Each Unit Owner shall bear the cost and be responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, electrical and plumbing fixtures, kitchen and bathroom fixtures, and all other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his unit and which may now or hereafter be affixed or contained within his/her unit. Such Unit Owner shall further be responsible for maintenance, repair and replacement of any air conditioning equipment exclusively servicing his/her unit, although such equipment may not be located in the unit, and of any and all wall, ceiling and floor surfaces, painting, decorating and furnishings and all other accessories which such owner may desire to place or maintain therein. Unit Owners are responsible for the maintenance, including cleaning, repair or replacement of windows and any screening thereon, screen doors and fixed and sliding glass doors. Air conditioning and heating equipment servicing individual units is a limited common element appurtenant to such units. The maintenance, repair or replacement of the interior surfaces of the



garages, any floor coverings on the exterior surface of the balconies installed by owner and permitted by the Association and any storm protection shutters installed by Developer or owner as provided herein shall be the responsibility of the Unit Owner at his/her expense. For safety reasons and to prevent damage to the roof, the Association has the management company flush the air conditioning units located on the roof monthly but this accommodation does not relieve the Unit Owners of the responsibility to maintain, repair and replace the air conditioning units.

B. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all the common elements, including those portions thereof which contribute to the support of the building, and all conduits, ducts, plumbing, sprinkler systems, wiring and other facilities located in the common elements, for the furnishing of utility services to the units, including artesian wells, pumps, piping, and fixtures serving individual air conditioning units. Painting and cleaning of all exterior portions of the building, including all exterior doors opening into walkways, shall also be the Association's responsibility. Sliding glass doors, screen doors, storm protection shutters on balconies and windows, windows and screens on windows, shall not be the Association's responsibility, but shall be the responsibility of the Unit Owner. Should any damage be caused to any unit by reason of any work, which may be done by the Association in the maintenance, repair or replacement of the common elements, the Association shall bear the expense of repairing such damage. In addition to the foregoing obligations of the Association, Developer has provided a maintenance manual to the Association, which contains a checklist for maintenance of the common elements.

C. Where loss, damage or destruction is sustained by casualty to any part of the building, whether interior or exterior, whether inside a unit or not, whether a fixture or equipment attached to the common elements or attached to and completely located inside a unit, and such loss, damage or destruction is insured for such casualty under the terms of the Association's casualty insurance policy or policies, but the insurance proceeds payable on account of such loss, damage or destruction are insufficient for restoration, repair or reconstruction, all the Unit Owners shall be specially assessed to make up the deficiency, irrespective of a determination as to whether the loss, damage or destruction is to a part of the building, or to fixtures or equipment which it is a Unit Owner's responsibility to maintain.

No Unit Owner shall do anything within his unit or on the common elements which would adversely affect the safety or soundness of the common elements or any portion of the Association property or Condominium property which is to be maintained by the Association.

D. In the event a Unit Owner makes any structural addition or alteration without the required written consent, the Association or an owner with an interest in any unit shall have the right to proceed in a court of equity to seek compliance with the provisions hereof. The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any common elements or as necessary to prevent damage to the common elements or to a unit or units. Unit Owners shall provide the Association with a copy of all keys to their unit. The Association shall maintain the keys to the units in a safe secure location that is accessible only to the Board of Directors or their designee.

Maintenance of the common elements is the responsibility of the Association. All limited common elements shall be maintained by the Association except for air conditioning and heating equipment servicing individual units, the interior surfaces of the garages and any permitted floor coverings on balconies. The Unit Owner shall maintain the air conditioning and heating equipment servicing his individual unit at the Unit Owner's expense. In the event the Association shall grant a Unit Owner permission to cover the exterior surface of the balcony floors then, in the event the floor covering is damaged or destroyed by the Association in making repairs to the balconies it shall be the responsibility of the Unit Owner and not the Association to pay for the repair or replacement of the floor covering. The owner of the unit to which a garage is appurtenant



shall pay the expenses of maintaining, repairing or replacing the doors, remote control units and devises, and the interior walls of the garage. If the record Unit Owner has been granted permission to install a DSS satellite dish which has a maximum diameter of 18 inches and can be mounted or affixed to the Condominium building at a location approved by the Association in writing, in advance of the installation, then the record owner of each such unit shall bear the costs and shall be responsible for the maintenance, repair and replacement of the satellite dish.

E. The Board of Administration may enter into a contract with any firm, person or corporation for the maintenance and repair of the common elements and may join with other Condominium corporations in contracting with the same firm, person or corporation for maintenance and repair.

F. The Association shall determine the exterior color scheme of all buildings and shall be responsible for the maintenance thereof, and no Unit Owner shall paint an exterior wall, door, window, patio or any exterior surface, etc., at any time without the written consent of the Association.

X

USE RESTRICTIONS

A. Each unit is hereby restricted to residential use by the owner or owners thereof, their immediate families, lessees, guests and invitees. Each unit is restricted to no more than six (6) occupants, without the Association's consent. There are no restrictions upon children.

B. The unit may be rented provided the occupancy is only by one (1) lessee and members of his immediate family and guests. The minimum rental period is ninety (90) days and the maximum rental period is unrestricted which minimum and maximum rental periods shall not be amended without the approval of at least seventy-five (75%) percent of the Unit Owners in the Condominium (i.e. at least thirty-seven (37) of the forty-nine (49) subphase IA of Phase I Unit Owners must vote for the modification or amendment) at a duly called meeting of the Association for the purpose of amending the rental restrictions. No rooms may be rented and no transient tenants may be accommodated. No lease of a unit shall release or discharge the owner thereof of compliance with this Section X or any of his other duties as a Unit Owner. Time sharing of units is prohibited. Ownership of a unit on a monthly or weekly time sharing program is prohibited. Subleasing of units is prohibited. All leases shall be in writing and shall be subject to this Declaration, the Articles of Incorporation, By-Laws, and the Rules and Regulations of the Association and shall be approved by the Association.

C. No nuisances shall be allowed to be committed or maintained upon the Condominium property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate, nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his unit or use of the common elements that will increase the cost of insurance upon the Condominium property.

D. No immoral, improper, or offensive use shall be made of the Condominium property nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed.

E. Reasonable rules and regulations concerning the use of the Condominium property may be made and amended from time to time by the Board of Administration of the Association as provided by its Articles of Incorporation and By-Laws.

F. The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any



common elements or of any portion of a unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the common elements or to a unit or units.

G. No sign, advertisement or notice of any type shall be shown on the common elements or any unit. This restriction on signs, advertising and notices shall not apply to Developer. No exterior antennas or aerials shall be erected on the Condominium property. Developer or the Association after transfer of control of the Association to Unit Owners other than Developer, may grant permission to record Unit Owners to install DSS satellite dishes which are approximately 18 inches in diameter. Developer or the Association after turnover may grant written permission to the record Unit Owner and, if granted, shall designate the location of the DSS satellite dish in writing prior to the installation of the satellite dish. The record Unit Owner shall be responsible for all costs related to the installation, maintenance, repair and replacement, of the DSS satellite dish and shall indemnify, defend and hold the Association harmless therefor. Upon the sale of the unit by the record owner of the unit the DSS satellite dish may be removed, at the owner's expense, or it may be transferred to the purchaser as part of the sale and purchase. In the event the DSS satellite dish is not removed by the record Unit Owner at closing then, by acceptance of the deed of conveyance by the purchaser, the purchaser shall be deemed to have assumed the responsibility for the maintenance, repair and replacement of the DSS satellite dish, together with the costs and expenses thereof, including the obligation to indemnify, defend and hold the Association harmless therefor. The installation of the DSS satellite dish does not relieve the Unit Owner from payment of the fee for the installed cable television connection provided by the Association as part of the Association's common expenses. This provision shall be deemed a covenant running with the land and shall be binding upon each successive owner of any unit utilizing a DSS satellite dish.

H. A Unit Owner shall not place or cause to be placed in the walkways or in or on any other common elements and facilities, stairs, or stairwells, any furniture, packages or objects of any kind. Such areas shall be used for no other reason than for normal transit through them. The Association may permit a Unit Owner to place small potted plants or small decorative items near the front doors of the unit so long as the potted plants or decorative items do not protrude into or block access to the common walkways. The Association reserves the right to restrict or prohibit the placement of potted plants or decorative items on the common elements.

I. It is prohibited to hang garments, rugs, etc., from the windows, patios or balconies from any of the facades of the building.

J. It is prohibited to dust rugs, etc., from windows, patios or balconies or to clean rugs, etc., by beating on the exterior of the building.

K. There are no special parking or storage facilities located on the Condominium property. No boats, utility trailers, recreational vehicles or special purpose vehicles shall be parked on the Condominium property. No motorhome, trailer, camper, watercraft, or commercial vehicle may be parked on the Condominium property. No resident shall park any vehicle on any driveway on the Condominium property. Any vehicle with visible advertising on the vehicle may be deemed a commercial vehicle, in the sole discretion of the Board of Administration. However, trucks with one (1) ton capacity or less and sport utility vehicles will not be deemed to be commercial vehicles unless the Board of Administration deems the vehicle to be a commercial vehicle as set forth above. Any vehicle may be temporarily parked on the streets and driveways when loading and unloading. Prior written approval of the Association to temporarily park a commercial vehicle is required and may not exceed four (4) forty-eight (48) hour periods in any year. No non-operating or non-functioning vehicle of any kind shall be permitted to be parked on the Condominium property. There shall be no repair, except emergency repair, performed on any permitted motor vehicle on the Condominium property. It is acknowledged and agreed by all Unit Owners that a violation of any of the provisions of this paragraph shall impose irreparable harm to the other Unit Owners in this



Condominium and that levying of fines by the Association for violations is appropriate. See Article XXVI Fines for Procedures for Levying Fines by the Association. No parking space shall be used by any other person other than an occupant of the Condominium who is an actual resident or by a guest or visitor and by such guest or visitor only when such guest or visitor is, in fact, visiting and upon the premises. All owners and residents of the Condominium are restricted to two (2) permitted vehicles per unit without the Association's consent to bring additional vehicles on the premises. All vehicles shall be parked in the open parking spaces or garages except when loading or unloading vehicles. Storage is permitted in the enclosed garages provided it does not prevent the use of the enclosed garages by an authorized motor vehicle. The enclosed garages are not air-conditioned. As a result mildew and rust may form on any items placed or stored in the enclosed garages. The Unit Owner shall be responsible for any damage caused to stored items by mildew or rust and the Unit Owner releases Developer, its contractor and/or its subcontractors of any and all liability for same.

L. Until Developer has closed the sales of all of the units in the Condominium, neither the other Unit Owners nor the Association shall interfere with the sale of such units. Developer may make such use of the unsold units and common elements as may facilitate its sales, including but not limited to maintenance of a sales office, model units, the showing of the property, and the display of signs. Developer may not be restricted in the use of the other common elements or areas.

M. Two household pets not exceeding thirty-five (35) pounds each which shall mean cats or dogs unless otherwise approved by the Board of Administration shall be allowed to be kept in the owner's unit. All pets must be kept on a leash when outside the owner's unit. Each pet owner shall be responsible for cleaning up after his pets in the common elements. Pets shall not create a nuisance. Notwithstanding any provision to the contrary contained herein, certified guide dogs, service animals and signal dogs (as defined herein below; hereinafter collectively referred to as "specially trained animals") shall be permitted at the Condominium subject to the following restrictions:

- i. Such specially trained animals shall not be kept, bred, or used at the Condominium for any commercial purpose; and
- ii. Such specially trained animals shall be on a leash while on the common elements.

Any pet as described above and any specially trained animal causing a nuisance or unreasonable disturbance to any other occupant of the Condominium shall be promptly and permanently removed from the Condominium upon notice given by the Board or Managing Agent; provided, however, that any such notice given with respect to a specially trained animal shall provide that before such animal must be removed, its owner shall have a reasonable time to acquire a replacement specially trained animal unless the Board determines that such animal poses an imminent serious threat of physical harm to other occupants at the Condominium. The Board may from time to time promulgate such rules and regulations regarding the continued keeping of such pets and specially trained animals as the circumstances may then require or the Board may deem advisable.

The term "guide dog" shall mean "any dog individually trained by a licensed guide dog trainer for guiding a blind person by means of a harness attached to the dog and a rigid handle grasped by the person".

The term "service animal" shall mean "any animal that is trained to provide those life activities limited by the disability of the person".

The term "signal dog" shall mean "any dog that is trained to alert a deaf person to intruders or sounds".



N. No Unit Owner shall allow anything whatsoever to fall from the window, patio, balcony, terrace, porch, or doors of the premises, nor shall he sweep or throw from the premises any dirt or other substance into any of the corridors, halls, patios, balconies, terraces or porches, elevators, ventilators, or elsewhere in the building or upon the grounds. A Unit Owner shall not place, store or use any item, upon any patio, balcony, terrace or porch without the approval of the Association, other than standard patio chairs, tables and furnishings and potted plants. Charcoal grills are prohibited.

O. When a unit is leased, a tenant shall have all use rights in the Association property and those common elements otherwise readily available for use generally by Unit Owners and the Unit Owner shall not have such rights except as a guest. Nothing in this subsection shall interfere with the access rights of the Unit Owner as a landlord pursuant to Chapter 83, Florida Statutes. The Association shall have the right to adopt rules to prohibit dual usage by a Unit Owner and a tenant of Association property and common elements otherwise readily available for use generally by Unit Owners.

P. All electric lights shall be turned off when the garage parking space is not occupied and all garage doors shall be kept closed at all times except when parking or removing cars from the garage.

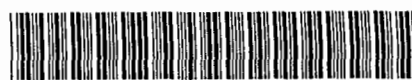
Q. The Association reserves the right to levy a charge to any Unit Owner using the enclosed parking garage to store appliances, dehumidifiers, table saws or any other type of devices that use electricity.

R. Carpeting of any type on individual unit balconies or walkways is prohibited and the Association shall not grant permission to install carpet on the individual unit balconies.

XI

LIMITATIONS UPON RIGHT OF OWNER TO ALTER OR MODIFY UNIT

No Unit Owner shall make any structural modifications or alterations of the unit. Further, no Unit Owner shall cause any improvements or changes to be made on or to the exterior of the buildings or enclosed garages, including painting or other decoration, the installation of awnings, electrical wiring, air conditioning units and other things which might protrude through or be attached to the walls of the buildings or enclosed garages; further, no Unit Owner shall in any manner change the appearance of any portion of the buildings or enclosed garages not wholly within the boundaries of the unit or enclosed garages. The Association has adopted storm protection shutter specifications for each building which include color, style and other factors deemed relevant by the Board and will permit the installation of storm protection shutters for the balconies, patio doors and windows. The maintenance, repair or replacement of the storm protection shutters shall be the responsibility of the Unit Owner at the owner's expense. The installation, repair, replacement and maintenance of the storm protection shutters, including color, shall be approved by the Association prior to installation, repair, replacement or maintenance and such installation, repair, replacement or maintenance shall comply with applicable building codes. The installation, repair, replacement, and maintenance of such shutters in accordance with the procedures set forth herein shall not be deemed material alterations to the common elements within the meaning of the Condominium Act. No Unit Owner shall install hard flooring (tile, wood, etc.) in lieu of carpeting in the living/dining room area or the bedrooms of any unit without the prior written approval of the Association. Any owner desiring to replace the carpeting in these areas with hard flooring shall submit the proposed changes to the Board of Directors who shall ensure that the installation of the hard flooring shall include such materials as the Board may approve in its discretion under the hard flooring to dampen the sound. Any Unit Owner may display one portable, removable United States flag in a respectful way on any day. On Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, any Unit Owner may display in a respectful way, portable, removable official flags not larger than 4 1/2 feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps or



Coast Guard, regardless of any Declaration rules or requirements dealing with flags or decorations.

XII

ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY ASSOCIATION

Whenever in the judgment of the Board of Administration the Condominium property shall require additions, material alterations or substantial improvements (in excess of the usual items of maintenance), and the making of such additions, material alterations or substantial improvements shall have been approved by a majority of the Unit Owners, the Board of Administration shall proceed with such additions, alterations or improvements and shall specially assess all Unit Owners for the cost thereof as a common expense.

XIII

AMENDMENT OF DECLARATION

These restrictions, reservations, covenants, conditions and easements may be modified or amended by recording such modifications in the Public Records of Brevard County, Florida, only after approval by the owners of at least seventy-five (75%) percent of the total units in the Condominium (i.e. at least thirty-seven (37) of the forty-nine (49) Subphase IA of Phase I Unit Owners must vote for the modification or amendment). No amendment to this Declaration shall be adopted which would operate to materially affect the validity or priority of any mortgage held by an institutional first mortgagee or which would alter, amend or modify, in any manner whatsoever, the rights, powers, interests or privileges granted in favor of any institutional first mortgagee or in favor of Developer without the consent of all such mortgagees or Developer, as the case may be, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation which consent may not be unreasonably withheld. There shall be no amendment adopted altering the share of ownership in the common elements or surplus, or altering the share of common expenses, unless the record Unit Owner and all record owners of liens on the unit join in the execution of the Amendment and unless a majority of all owners in the Association approve the Amendment.

Notwithstanding anything to the contrary contained in this Declaration, Developer expressly reserves the right to amend this Declaration so as to correct any legal description contained herein, which legal description or descriptions may have been incorrect by reason of a scrivener's or surveyor's error. Developer may amend this Declaration as aforescribed by filing an amended legal description (or descriptions) as an amendment to this Declaration among the Public Records of Brevard County, Florida, which amendment (or amendments) shall expressly describe that legal description which is being corrected (by reference to the exhibit containing said legal description or otherwise), in addition to the corrected legal description. Such amendments need be executed and acknowledged only by Developer and need not be approved by the Association, Unit Owners, lienors or mortgagees of units of the Condominium whether or not elsewhere required for amendments. As part and parcel of any such amendment as provided for in this subparagraph, however, there shall be attached thereto an affidavit of the individual or individuals responsible for the original incorrect legal description, whether he be scrivener or surveyor, which affidavit shall set forth (1) that said individual made an error in the legal description, (2) that the error is corrected by the description contained in the amendment, and (3) that it was the intent at the time of the incorrect original legal description to make that description such as is contained in the new amendment. In the event the party responsible for the original incorrect legal description has died, or is not available, then in that event, any other party having personal knowledge of the incorrect legal description by reason of the scrivener's or surveyor's error may execute the required affidavit for the amendment provided herein. Any amendment subject to Section 718.110(4), Florida Statutes shall be approved by a majority of the voting interests of the Condominium and all record owners of liens on the unit.

Pursuant to Section 718.110(2), Florida Statutes, Developer may make amendments to this Declaration without consent of the Unit Owners which shall be limited to matters other than those under Sections 718.110(4) and (8), Florida Statutes.



In the event it shall appear that there is an error or omission in this Declaration or exhibits thereto, then and in that event the Association may correct such error and/or omission by an amendment to this Declaration in the manner hereinafter described to effectuate an amendment for the purpose of curing defects, errors or omissions. Such an amendment shall not require a vote of approval as provided above but shall require a vote in the following manner:

(A) Notice of the subject matter of a proposed amendment to cure a defect, error or omission shall be included in the notice of any meeting at which such proposed amendment is to be considered.

(B) A resolution for the adoption of such a proposed amendment may be proposed by either the Board of Administration or by the members of the Association, and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing delivered to the secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(i) not less than thirty-three and one-third (33 1/3%) percent of the Board of Directors and by not less than ten (10%) percent of the votes of the entire membership of the Condominium; or

(ii) not less than twenty-five (25%) percent of the votes of the entire membership of the Association; or

(iii) in the alternative, an amendment may be made by an agreement signed and acknowledged by a majority of the Unit Owners in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Brevard County, Florida.

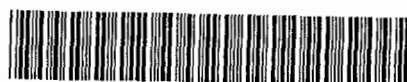
(C) The foregoing provisions relative to amendments for defects, errors or omissions are in accordance with and pursuant to Sections 718.110(1) and (5), Florida Statutes.

(D) That the amendment made pursuant to this paragraph need only be executed and acknowledged by Developer or the Association and by no other parties whatsoever.

(E) Any amendment pursuant to Section 718.110(5), Florida Statutes, may be approved by the Board of Administration or a majority of the voting interests.

Notwithstanding anything to the contrary contained in this Declaration, Developer reserves the right to change the interior designs and arrangement of all units and to alter the boundaries between units, as long as Developer owns the units so altered; however, no such change shall increase the number of units nor alter the boundaries of the common elements, except the party wall between any units, without amendment of this Declaration in the manner hereinbefore set forth. If Developer shall make any changes in units, as provided in this paragraph, such changes shall be reflected by an amendment to this Declaration with a survey attached reflecting such authorized alteration of units, and said amendment need only be executed and acknowledged by Developer, any holders of institutional mortgages encumbering the altered units and if the amendment is subject to Section 718.110(4), Florida Statutes, it shall be approved by a majority of the voting interests of the Condominium. The survey shall be certified in the manner required by the Condominium Act. If more than one (1) unit is concerned, Developer shall not apportion between the units the shares in the common elements, common expenses and common surplus of the units concerned and such shares of common elements, common expenses and common surplus shall remain unchanged in the amendment of this Declaration unless all Unit Owners approve the amendment changing the shares.

No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or



deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language:

Substantial rewording of Declaration. "See provision... for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

Invalidation of any one (1) or more of these restrictions, reservations, covenants, conditions and easements, or any provision contained in this Declaration, or in a conveyance of unit by Developer, by judgment, court order, or law, shall in no way affect any of the other provisions which shall remain in full force and effect.

In the event that any court should hereafter determine that any provision, as originally drafted herein, violates the rule against perpetuities or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, the measuring life shall be that of the youngest incorporator of the Association.

These restrictions, reservations, covenants, conditions and easements shall be binding upon and inure to the benefit of all property owners and their grantees, heirs, personal representatives, successors and assigns, and all parties claiming by, through or under any member.

XIV

TERMINATION OF CONDOMINIUM

Except as otherwise provided in Article VIII of this Declaration, the Condominium created and established hereby may only be terminated upon the vote of members of the Association owning ninety (90%) percent of the units in the Condominium, provided that the written consent to such termination is obtained from all institutional first mortgagees holding mortgages encumbering the units.

Immediately after the required vote of consent to terminate, each and every Unit Owner shall immediately convey by warranty deed to the Association all of said Unit Owners' right, title and interest to any unit and to the common elements, provided the Association's officers and employees handling funds have been adequately bonded and the Association or any member shall have the right to enforce such conveyance by specific performance in a court of equity.

The Board of Administration of the Association shall then sell all of the property at public or private sale upon terms approved in writing by all of the institutional first mortgagees. Upon the sale of said property, the costs, fees and charges for affecting said sale, the cost of liquidation and dissolution of the Association and all obligations incurred by the Association in connection with the management and operation of the property up to and including the time when distribution is made to the Unit Owners, shall be paid out of the proceeds of said sale, and the remaining balance (hereinafter referred to as "net proceeds of sale") shall be distributed to the Unit Owners in the manner now about to be set forth.

The distributive share of each Unit Owner in the net proceeds of sale, though subject to the provisions hereinafter contained, shall be the following portion thereof; to-wit:

AN UNDIVIDED ONE-FORTY-NINTH (1/49)

The distributive share of each Unit Owner will change as each phase (or subphase) is added to the Condominium as set forth in Article II of this Declaration. Upon the determination of each Unit Owner's share as above provided for, the Association shall pay out of each Unit Owner's share all mortgages and other liens encumbering said unit in accordance with their priority, and upon such payment being made, all mortgagees and lienors shall execute and record satisfactions or releases of their liens against said unit or units, regardless of whether the same are paid in full. Thereupon, the directors of the Association shall proceed to liquidate and dissolve the Association, and distribute the remaining portion of each distributive share, if any, to the owner or owners entitled thereto. If more than one person has an interest in a unit, the Association shall



pay the remaining distributive share allocable to said unit to the various owners of such unit, excepting that if there is a dispute as to the validity, priority or amount of mortgages or liens encumbering a unit, then payment shall be made to the owner and/or owners of such unit and to the owners and holders of the mortgages and liens encumbering said unit.

As evidence of the members' resolution to abandon passed by the required vote or written consent of the members, the President and Secretary of the Association shall effect and place in the Public Records of Brevard County, Florida, an affidavit stating that such resolution was properly passed, so approved by the members, and also shall record the written consents, if any, of institutional first mortgagees to such abandonment. Upon recordation of the instrument evidencing consent of ninety (90%) percent of the Unit Owners to terminate the Condominium, the Association shall notify the division within thirty (30) working days of the termination and the date the document was recorded, the county where the document was recorded, and the book and page number of the public records where the document was recorded.

After such an affidavit has been recorded and all owners have conveyed their interest in the Condominium parcel to the Association and the Association to the purchaser, the title to said property thereafter shall be free and clear from all restrictions, reservations, covenants, conditions and easements set forth in this Declaration, and the purchaser and subsequent grantees of any of said property shall receive title to said lands free and clear thereof.

XV

ENCROACHMENTS

If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any other unit or upon any portion of the common elements, or if any encroachment shall hereafter occur as the result of settling of the building, or alteration to the common elements made pursuant to the provisions herein, or as the result of repair and restoration, a valid easement shall exist for the continuance of such encroachment for so long as the same shall exist.

XVI

ASSOCIATION TO MAINTAIN REGISTER OF OWNERS AND MORTGAGEES

The Association shall at all times maintain a register setting forth the names of all Unit Owners in the Condominium, and any purchaser or transferee of an unit shall notify the Association of the names of any party holding a mortgage upon any unit and the name of all lessees in order that the Association may keep a record of same.

XVII

ESCROW FOR INSURANCE PREMIUMS

Any institutional first mortgagee holding a mortgage upon a unit in the Condominium shall have the right to cause the Association to create and maintain an escrow account for the purpose of assuring the availability of funds with which to pay premium or premiums due from time to time on casualty insurance policy or policies which the Association is required to keep in existence, it being understood that the Association shall deposit in an escrow depository satisfactory to such institutional first mortgagee or institutional first mortgagees a monthly sum equal to one twelfth (1/12) of the annual amount of such insurance expense, and to contribute such other sum as may be required therefor to the end that there shall be on deposit in said escrow account at least one (1) month prior to the due date for payment of such premium or premiums, a sum which will be sufficient to make full payment therefor.

Premiums for insurance required to be placed by the Association shall be a common expense and shall be paid by the Association.



If two (2) or more institutional mortgagees hold any mortgage or mortgages upon any Condominium parcel, and/or shall be the owner of any Condominium parcel or Condominium parcels, the exercise of the rights above described or manner of exercising said rights shall vest in the institutional mortgagee owning and holding the first recorded mortgage encumbering a Condominium parcel, and the decision of such institutional mortgagee shall be controlling.

XVIII

REAL PROPERTY TAXES DURING INITIAL YEAR OF CONDOMINIUM

In the event that during the year in which this Condominium is established, real property taxes are assessed against the Condominium property as a whole, and are paid by the Association such taxes will be a common expense.

XIX

RESPONSIBILITY OF UNIT OWNERS

The owner of each unit shall be governed by and shall comply with the provisions of this Declaration as well as the By-Laws and the Articles of Incorporation of the Association. Any Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his act, neglect or carelessness, or by that of any members of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Nothing herein contained, however, shall be construed so as to modify any waiver of rights or subrogation by insurance companies.

In any action brought against a Unit Owner by the Association for damages, or injunctive relief due to such Unit Owner's failure to comply with the provisions of this Declaration or the By-Laws of the Association, the prevailing party shall be entitled to court costs, reasonable attorney's fees and expenses incurred by it in connection with the prosecution of such action.

XX

WAIVER

The failure of the Association, a Unit Owner or institutional first mortgagee to enforce any right, provision, covenant or condition which may be granted herein, or in the By-Laws and the Articles of Incorporation of the Association, or the failure to insist upon the compliance with same, shall not constitute a waiver by the Association, such Unit Owner or institutional first mortgagee to enforce such right, provision, covenant or condition, or insist upon the compliance with same, in the future.

No breach of any of the provisions contained herein shall defeat or adversely affect the lien of any mortgage at any time made in good faith and for a valuable consideration upon said property, or any part thereof, and made by a bank, savings and loan association, or insurance company authorized to transact business in the State of Florida and engage in the business of making loans constituting a first lien upon real property, but the rights and remedies herein granted to Developer, the Association, and the owner or owners of any part of said Condominium, may be enforced against the owner of said property subject to such mortgage, notwithstanding such mortgage.

XXI

CONSTRUCTION

The provisions of this Declaration shall be liberally construed so as to effectuate its purposes. The invalidity of any provision herein shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.



XXII

GENDER

The use of the masculine gender in this Declaration shall be deemed to refer to the feminine or neuter gender, and the use of the singular or plural shall be taken to mean the other whenever the context may require.

XXIII

CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provisions hereof.

XXIV

REMEDIES FOR VIOLATIONS

Each Unit Owner, each tenant and other invitee, and the Association shall be governed by, and shall comply with the provisions of the Florida Condominium Act, this Declaration, the documents creating the Association, and the Association By-Laws and the provisions thereof shall be deemed expressly incorporated into any lease of a unit. Actions for damages for injunctive relief, or both, for failure to comply with these provisions may be brought by the Association or by a Unit Owner against:

- A. the Association;
- B. a Unit Owner;
- C. directors designated by Developer, for actions taken by them prior to the time control of the Association is assumed by Unit Owners other than Developer;
- D. any director who willfully and knowingly fails to comply with these provisions;
- E. any tenant leasing a unit, and any other invitee occupying a unit.

The prevailing party in any such action or in any action in which the purchaser claims a right of voidability based upon contractual provisions as required in Section 718.503(1)(a), Florida Statutes, is entitled to recover reasonable attorney's fees. A Unit Owner prevailing in an action between the Association and the Unit Owner under this section, in addition to recovering his reasonable attorney's fees, may recover additional amounts as determined by the Court to be necessary to reimburse the Unit Owner for his share of assessments levied by the Association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law.

XXV

TIMESHARE RESERVATION

No reservation is made pursuant to Section 718.1045, Florida Statutes, for the creation of timeshare estates. Timeshare estates are prohibited.

XXVI

FINES

The Association may levy reasonable fines against a unit for the failure of the owner of the unit, or its occupant, licensee, or invitee, to comply with any provision of this Declaration, the Association By-Laws, or reasonable rules of the Association. No fine will become a lien against a unit. No fine may exceed \$100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided



that no fine in the aggregate exceeds \$1,000.00. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other Unit Owners. If the committee does not agree with the fine, the fine may not be levied. The provisions of this Article do not apply to unoccupied units.

XXVII

SIGNAGE

After Developer has completed its sales program, the Association, through its Board of Administration, shall have the right to determine the type, style and location of all signage associated with the Condominium property. Prior to completion of its sales program Developer shall control signage for the Condominium.

XXVIII

INSTITUTIONAL MORTGAGEE

An institutional mortgagee means the owner and holder of a mortgage encumbering a Condominium parcel, which owner and holder of said mortgage is either a bank or life insurance company or a federal or state savings and loan association, or a mortgage or real estate investment trust, or a pension and profit sharing fund, or a credit union, or a Massachusetts business trust, or an agency of the United States Government, or the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or any entity controlling, controlled by or under common control with any of the foregoing, or a lender generally recognized in the community as an institutional lender or developer, or assignee, nominee, or designee of Developer.

An institutional mortgage means a mortgage owned or held by an institutional mortgagee.

An insurance trustee means that Florida bank having trust powers, designated by the Board to receive proceeds on behalf of the Association, which proceeds are paid as a result of casualty or fire loss covered by insurance policies.

XXIX

RIGHTS RESERVED UNTO INSTITUTIONAL MORTGAGEES

The rights and privileges in this Declaration and the exhibits hereto in favor of Developer are freely assignable, in whole or in part, by Developer to any party who may be hereafter designated by Developer to have and exercise such rights including an institutional mortgagee in the event of a foreclosure against Developer or deed in lieu thereof by Developer. Such rights may be exercised by the nominee, assignee or designee of Developer and/or exercised by the successor or successors in trust of Developer and/or exercised by the successor or successors in interest or the nominees, assignees or designees of the nominees, assignees or designees of Developer.

XXX

NOTICE TO INSTITUTIONAL MORTGAGEES

The Association shall provide a holder, insurer or guarantor of a first mortgagee, upon written request (such request to state the name and address of such holder, insurer or guarantor and the unit number) timely notice of:

- A. any proposed amendment of the Condominium instruments effecting a change in (i) the boundaries of any unit or the exclusive easement rights appertaining thereto, (ii) the interests in the general or limited common elements appertaining to any unit or the liability for common expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any unit; or (iv) the purposes to which any unit or the common elements are restricted;



- B. any proposed termination of the Condominium regime;
- C. any condemnation loss or any casualty loss which affects a material portion of the condominium or which affects any unit on which there is a first mortgage held, insured or guaranteed by such eligible holder;
- D. any delinquency in the payment of assessments or charges owed by a Unit Owner subject to the mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of sixty (60) days;
- E. any lapse, cancellation or material modification of any insurance policy maintained by the Association.

XXXI

CABLE TELEVISION AND SATELLITE DISH

The cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense, and if not, such cost shall be considered common expense if it is designated as such in a written contract between the Board of Administration and the company providing the master television antenna system or the cable television service. The contract shall be for a term of not less than two years.

- A. Any contract made by the Board of Administration for a community antenna system or duly franchised cable television service may be canceled by a majority of the voting interests present at the next regular or special meeting of the Association. Any member may make a motion to cancel said contract, but if no motion is made or if such motion fails to obtain the required majority at the next regular or special meeting, whichever is sooner, following the making of the contract, then such contract shall be deemed ratified for the term therein expressed.
- B. Any such contract shall provide, and shall be deemed to provide if not expressly set forth, that any hearing impaired or legally blind Unit Owner who does not occupy the unit with a nonhearing impaired or sighted person may discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and as to such units, the owners shall not be required to pay any common expenses charge related to such service. If less than all members of an association share the expenses of cable television, the expense shall be shared equally by all participating Unit Owners. The Association may use the provisions of Section 718.116, Florida Statutes, to enforce payment of the shares of such costs by the Unit Owners receiving cable television.
- C. The Association has approved the installation of DSS type satellite dishes for the Condominium property. The approved satellite dish is approximately eighteen (18) inches in diameter. The Association shall determine the location of the satellite dish, in its sole discretion. All costs of installation, maintenance or repair of the satellite dish shall be the responsibility of the record owner of the unit and the owner shall indemnify and hold the Association harmless therefor.

XXXII.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

The rules of the St. Johns River Water Management District require the following provisions to be included in this Declaration:

- A. Property Description: Property encompassed by the permit granted by the St. Johns River Water Management District (where the surface water management system will be located) is included in the legal description of the parent tract located on sheet 3 of Exhibit "B" attached hereto and made a part hereof.



B. Definitions: "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

C. Duties of Association: The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

D. Covenant for maintenance assessments for Association: Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including, but not limited to, work within retention areas, drainage structures and drainage easements.

E. Easement for Access and Drainage: The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of the common elements which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without prior written approval of the St. Johns River Water Management District.

F. Amendment: Any amendment to this Declaration which alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common elements must have the prior approval of the St. Johns River Water Management District.

G. Enforcement: The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system.

H. Swale Maintenance: Developer has constructed a drainage swale upon the common elements for the purpose of managing and containing the flow of excess surface water, if any, found upon such common elements from time to time. The Association shall be responsible for the maintenance, operation and repair of the swales on the common elements. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the drainage swale shall be authorized and any damage to any drainage swale, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale returned to its former condition as soon as possible by the Association.



XXXIII

ASSOCIATION MAINTENANCE STANDARDS

It is mandatory that the Association, in carrying out its responsibilities under this Article XXXIII, comply with the following minimum standards, requirements and guidelines:

A. The Board shall cause all utilities and utility systems forming a part of the common elements to be maintained properly and in good condition, and effect repairs thereto as needed. It is mandatory that the Board cause all water and/or sewer infrastructure to be inspected at least annually by a licensed and qualified contractor, engineer or architect, with expertise in the construction and maintenance of such water/sewer infrastructure.

B. It is mandatory that the Board cause all drainage systems, landscape installations, and irrigation systems within the common elements to be inspected at least annually. In particular, the Board shall inspect for any misaligned, malfunctioning or non-functional sprinkler or blocked drainage grates, basins, lines and systems, which circumstances could cause damage to the Condominium property. It is mandatory that at least one such inspection each year shall be performed by a licensed and qualified contractor, engineer or architect with expertise in the construction and maintenance of such drainage and landscape installations. Without limiting the foregoing, all landscaping shall be maintained in accordance with the following minimum maintenance standards:

1. Lawn and ground cover shall be kept mowed and/or trimmed regularly;
2. Planting shall be kept in a healthy and growing condition;
3. Fertilization, cultivation, spraying and tree pruning shall be performed as part of the regular landscaping program;
4. Stakes, guides, and ties on trees shall be checked regularly to insure the correct function of each; ties shall be adjusted to avoid creating abrasions or girdling of the trunk or stem;
5. Damage to planting shall be repaired and corrected within thirty (30) days of occurrence; and
6. Irrigation systems shall be kept in sound working condition; adjustments, replacement or malfunctioning parts and cleaning of systems shall be an integral part of the regular landscaping program.

C. It is mandatory that the Board cause all hardscape, paved areas and internal streets within the Condominium property to be inspected at least annually by a licensed and qualified contractor, engineer or architect with expertise in the construction and maintenance of such hardscape and paved areas.

D. It is mandatory that the Board cause all waterscape or water features within the common elements (including, but not necessarily limited to, the swimming pool and spa), to be inspected each year by a licensed and qualified contractor, engineer, or architect with expertise in the construction and maintenance of such waterscape and water features.

E. It is mandatory that the Board cause the structures and roofs of all improvements within the Condominium property to be inspected each year by a licensed and qualified contractor, engineer, or architect with expertise in the construction and maintenance of such structures and roofs.

F. It is mandatory that the Board carry out such other periodic inspections, and obtain such other reports, as may be prudent and appropriate. In each instance in which a contractor, engineer, architect or other professional with expertise in a specific area is



engaged to conduct an investigation or inspection, such expert shall promptly provide a written report thereof to the Board. The written report shall identify all items of maintenance or repair which either requires current action by the Association, or which will need further review, inspection or analysis. The Board shall, in each case, cause any and all necessary or prudent repairs to be promptly undertaken and completed, to prevent avoidable deterioration or property damage.

G. This Section XXXIII is intended only to provide specific minimum maintenance and inspection requirements in particular areas, and shall in no way limit the Association's general responsibility with respect to maintenance in a prudent manner, designed to prevent avoidable deterioration or property damage.

XXXIV

CONSERVATION EASEMENTS

Pursuant to the provisions of Section 704.06, Florida Statutes, Developer (sometimes referred to herein as "Grantor") hereby voluntarily grants and conveys to the St. Johns River Water Management District (the "District" or "Grantee") a conservation easement in perpetuity over the real property described in Exhibit "E" attached hereto and incorporated herein (the "Property" or "Conservation Easement Areas"). Developer fully warrants title to said Conservation Easement Areas, and will warrant and defend the same against the lawful claims of all persons whomsoever. Developer grants this Conservation Easement as a condition of permit number 40-009-86161-1 (the "Permit") issued by the District, to offset adverse impacts to natural resources, fish and wildlife, and wetland functions. This Conservation Easement is also given to prevent secondary impacts to natural resources, fish and wildlife, surface waters and wetland functions.

A. Purpose. The purpose of this Conservation Easement is to assure that the Property will be retained forever in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property. It is the further purpose of this Conservation Easement to ensure that no structures for water dependent activities shall be constructed, placed or maintained on the Property or the adjacent submerged lands other than those allowed in the Permit. The term "water dependent activities" shall mean those activities which can only be constructed on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereignty lands for transportation, recreation, energy production or transmission, or source of water, and whether the use of the water or sovereignty lands is an integral part of the activity.

1. Riparian Rights. This conservation easement shall convey to the Grantee all riparian rights associated with the Property described in Exhibit "E" other than as may be necessary to use and maintain the facility described in the Permit.

2. Maintenance. Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property and does hereby indemnify and hold Grantee harmless therefrom.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

(a) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.

(b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.

(c) Removing, destroying, or trimming trees, shrubs, or other vegetation, except for exotic or nuisance species.



- (d) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
- (e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (g) Acts or uses detrimental to such retention of land or water areas.
- (h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

4. Reserved Rights. Grantor reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property, that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

5. Rights of Grantee. To accomplish the purposes stated herein, Grantor conveys the following rights to Grantee:

(a) To enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement.

(b) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Property that may be damaged by any activity inconsistent with this Conservation Easement. Grantor intends that any cost incurred by Grantee in enforcing, judicially or otherwise, the terms and restrictions of this conservation easement against Grantor, its heirs, successors, personal representatives or assigns, including, without limitation, costs of suit, attorneys' fees and any costs of restoration necessitated by the violation of the terms of this conservation easement by Grantor, its heirs, successors, personal representatives or assigns, be borne by and recoverable against Grantor, its heirs, successors, personal representatives or assigns.

6. Grantee's Discretion. Grantee may enforce the terms of this Conservation Easement at its discretion, but if Grantor breaches any term of this Conservation Easement and Grantee does not exercise its rights under this Conservation Easement, Grantee's forbearance shall not be construed to be a waiver by Grantee of such term, or of any subsequent breach of the same, or any other term of this Conservation Easement, or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

7. Grantee's Liability. Grantor will assume all liability for any injury or damage to the person or property of third parties, which may occur on the Property arising from Grantor's ownership of the Property. Neither Grantors, nor any person or entity claiming by or through Grantor shall hold Grantee liable for

any damage or injury to person or personal property, which may occur, on the Property.

8. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property or to persons resulting from such causes.

9. Recordation. Grantor shall record this Conservation Easement in timely fashion in the Official Records of Brevard County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

10. Successors. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property. Grantor agrees that the terms, conditions, restrictions and purposes of this conservation easement will be included in any subsequent deed or other legal instrument by which the Grantor divests itself of any interest in the Property.

11. Amendment. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the District and Developer or their respective successors or assigns.

XXXV

MARINAS

Two commercial marinas are located adjacent to the Condominium property. The marinas are open to the public. Unit Owners will be entitled to lease slips as members of the public on a first come, first serve basis. The Association will enter into a land lease with the operator of the commercial marinas for a portion of the Condominium upland parcel lying adjacent to the marinas to provide, without limitation, an access boardwalk around the perimeter of the marina basin, and a parking lot and dockmaster office located on the south end of the marina basin. Prior to the conveyance of title of any of the Condominium units to Unit Owners, the Association shall execute the land lease with the marina operator. The land lease will have a term of ninety-nine (99) years with annual lease rental payments of One and no/100 Dollars (\$1.00). The land lease shall also have one additional ninety-nine (99) year term renewable at the sole option of the marina operator under the same terms and conditions. The marina operator's land lease will include the exclusive use and benefit of the property for the operation of the marina, including the sole and exclusive right to obtain and maintain with the State of Florida the necessary sovereign submerged land leases necessary for the operation of the marina. The marina operator will be responsible for all direct costs for the maintenance of the property, including, without limitation, insurance, taxes, maintenance, repairs, and utilities solely serving the marina. Notwithstanding the foregoing exclusive rights of the marina operator, the Association will retain the rights for the Association and its Unit Owners to utilize portions of the leased premises for ingress and egress, both pedestrian and vehicular, and for the installation and maintenance of utilities by Developer and/or the Association, all as described in the land lease. Developer reserves the right to change the Condominium and marina boundaries and to create easements between the Condominium property and the marinas as Developer deems necessary or advisable in its sole discretion. A copy of the land lease will, upon execution, be made available upon request to the Unit Owners.

XXXVI

ACCESS TO CONDOMINIUM

Sail Lane, the roadway providing access to the Condominium property is a private road and is built upon property owned by the Association and upon property in which the Association maintains an easement. Additionally, the other property owners along Sail Lane maintain an easement across Sail Lane for access, pursuant to those easement agreements recorded at Official Records Book 397, Page 413; Official Records Book 738, Page 642; and Official Records Book 4669, Page 1215, all of the Public Records of Brevard County, Florida. Pursuant to the foregoing easement agreements and pursuant to an Agreement between Developer and Merle Babcox and Ruth Babcox, the owner of the properties located at 450 Sail Lane, 460 Sail Lane and 215 N. Tropical Trail, Merritt Island, Florida 32953, the Association has the sole responsibility for the ordinary maintenance, repair or upkeep of Sail Lane in its entirety. Each owner in Island Pointe acknowledges that the property abutting Sail Lane is zoned commercial; and, therefore, commercial activities are and will be in the future conducted on Sail Lane and on properties adjoining Sail Lane.

XXXVII

MOLD AND MILDEW AWARENESS AND PREVENTIONS

As part of the Association's and the Board's responsibility for maintenance and repair of the Condominium property as set forth in Articles IX and XXXIII of this Declaration and the Unit Owner's responsibility to maintain their unit, there are many ways that the Association, the Board and Unit Owners can help to control moisture and mold located on, under, within or adjacent to the Condominium property, including, but not limited to, the common elements and limited common elements. The following is a list of suggestions, which is not meant to be all inclusive:

- Keep indoor humidity levels as low as possible by running the air-conditioning unit at a comfortable level. Remember, the cooler the air is, the less humidity it will hold, thereby limiting the growth of mold and mildew.
- Use of a dehumidifier is a great way to keep the humidity levels lower than normal when needed.
- The addition of a humidistat to existing air conditioning control systems is also an excellent way to keep the humidity levels lower when an indoor space is left unoccupied for extended periods of time.
- There are numerous brands of moisture absorbent chemicals available to help keep the humidity inside at a proper level while indoor space is unoccupied for short periods of time.
- Do not run air conditioners with windows open. The air conditioning system is not designed to keep up with the moisture and heat load this condition will generate. When windows are left open, there is a risk of saturating everything inside the indoor space (walls, furniture, carpeting, etc.) with more moisture than the air conditioning system is designed to remove. Remember, mold needs moisture to survive. The drier the indoor space, the better off the indoor space will be.
- Fix leaking plumbing and any other source of unwanted water immediately.
- Maintain proper indoor humidity. Equipment that conditions the air, such as air conditioners, dehumidifiers and ventilation systems should be operated year round.
- Have major appliances and equipment, such as heating, ventilating and air conditioning systems inspected, cleaned and serviced regularly by a qualified professional.



- Clean and dry refrigerator, air conditioner and dehumidifier drip pans and filters regularly.
- The Association and/or the Board should respond promptly when they see or have called to their attention signs of moisture or mold on the common elements.
- Do not allow moisture to stand or make contact with carpet, furniture and cellulose-based materials, such as wood, drywall or other non-tile, non-plastic or non-metal materials.
- Dry all water damaged areas and items immediately to prevent mold growth.
- If mold develops, clean up the mold by washing off hard surfaces with a commercial strength cleaner and mold/mildew inhibitor (such as "Tile Air II" or "Miltrol" from the Marinize Product Corporation) or equal, making sure to follow directions as specified.
- Depending upon the nature and extent of the mold infestation, trained professionals may be needed to assist in the remediation effort.
- Mold that is not properly and adequately removed may reappear.

The Association acknowledges and agrees that neither Developer, nor its general contractor, Benko Construction Co., Inc. ("Contractor"), will be liable to the Association for any special, incidental or consequential damages based on any legal theory whatsoever, including but not limited to, strict liability, breach of express or implied warranty, negligence or any other legal theory with respect to the presence and/or existence of mold, mildew and/or microscopic spores located on, under, within or adjacent to the Condominium property, including, but not limited to, the common elements and limited common elements, unless caused by the sole negligence or willful misconduct of Developer or Contractor. The Association, on behalf of itself and its members, tenants, invitees and licensees hereby releases and agrees to indemnify Developer and Contractor and their officers, directors, partners, members, successors and assigns from and against any and all claims, actions, damages, causes of action, liabilities and expenses (including, without limitation, attorneys' fees and costs of enforcing this release and indemnity) for property damage, injury or death resulting from the exposure to microscopic spores, mold and/or mildew and from any loss of resale value due to the presence and/or existence of mold, mildew and/or microscopic spores; provided, however, that in no event is the Association releasing or indemnifying Developer or Contractor as a result of the presence and/or existence of mold, mildew and/or microscopic spores if caused by the sole negligence or willful misconduct of Developer or Contractor.

IN WITNESS WHEREOF, Developer has caused these presents to be signed and sealed on this 21st day of October, 2008.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

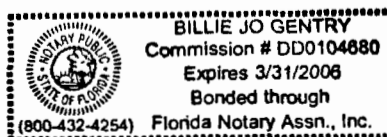
[Signature]
Print Name: Tamela J. Jones

[Signature]
Print Name: Billie Jo Gentry

DEVELOPER:

TOWNE DEVELOPMENT OF ISLAND
POINTE, INC., a Florida corporation

By: [Signature]
Name: John Bennett
Title: President



STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 21st day of October, 2004 by Kohn Bennett, as ^{VICE} President of TOWNE DEVELOPMENT OF ISLAND POINTE, INC. , a Florida corporation, on behalf of the corporation. He is personally known to me or produced _____ as identification.

NOTARY PUBLIC
My Commission Expires:



CFN 2004331544
OR Book/Page: 5374 / 2616

SURVEYOR'S CERTIFICATE FOR ISLAND POINTE, A CONDOMINIUM PHASE 1A

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, THE UNDERSIGNED AUTHORITY DULY AUTHORIZED TO ADMINISTER OATHS AND TAKE ACKNOWLEDGMENTS, PERSONALLY APPEARED "ROBERT M. SALMON", BY ME WELL KNOWN, AND KNOWN TO ME TO BE THE PERSON HEREINAFTER DESCRIBED, WHO AFTER BEING BY ME FIRST DULY CAUTIONED AND SWORN, DEPOSES AND SAYS AN OATH AS FOLLOWS, TO-WIT:

I HEREBY CERTIFY THAT THE CONSTRUCTION OF THE IMPROVEMENTS SHOWN AND DESCRIBED ON THE ATTACHED EXHIBIT "A" IS NOT SUBSTANTIALLY COMPLETE; HOWEVER, THESE DRAWINGS ARE SUFFICIENTLY DETAILED SO THAT THE MATERIAL DESCRIBED AND SHOWN ON THE ATTACHED EXHIBIT "A" TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM ESTABLISHING ISLAND POINTE, A CONDOMINIUM, PHASE 1, IS AN ACCURATE REPRESENTATION OF THE LOCATIONS AND DIMENSIONS OF THE IMPROVEMENTS, AND THAT THE IDENTIFICATION, LOCATIONS AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL, THIS 30th DAY OF JANUARY, 2004, A.D.

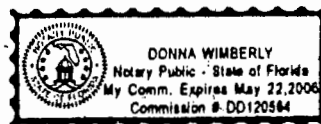
ALLEN ENGINEERING, INC.

BY: _____

ROBERT M. SALMON
PROFESSIONAL LAND SURVEYOR
STATE OF FLORIDA, NO. 4262

THIS FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 30th DAY OF JANUARY, 2004 BY ROBERT M. SALMON, WHO IS PERSONALLY KNOWN AND WHO DID TAKE AN OATH.

Donna Wimberly
DONNA WIMBERLY
NOTARY PUBLIC-STATE OF FLORIDA
MY COMMISSION EXPIRES: MAY 22, 2006
MY COMMISSION NO IS: DD120564



JFN 2004331544

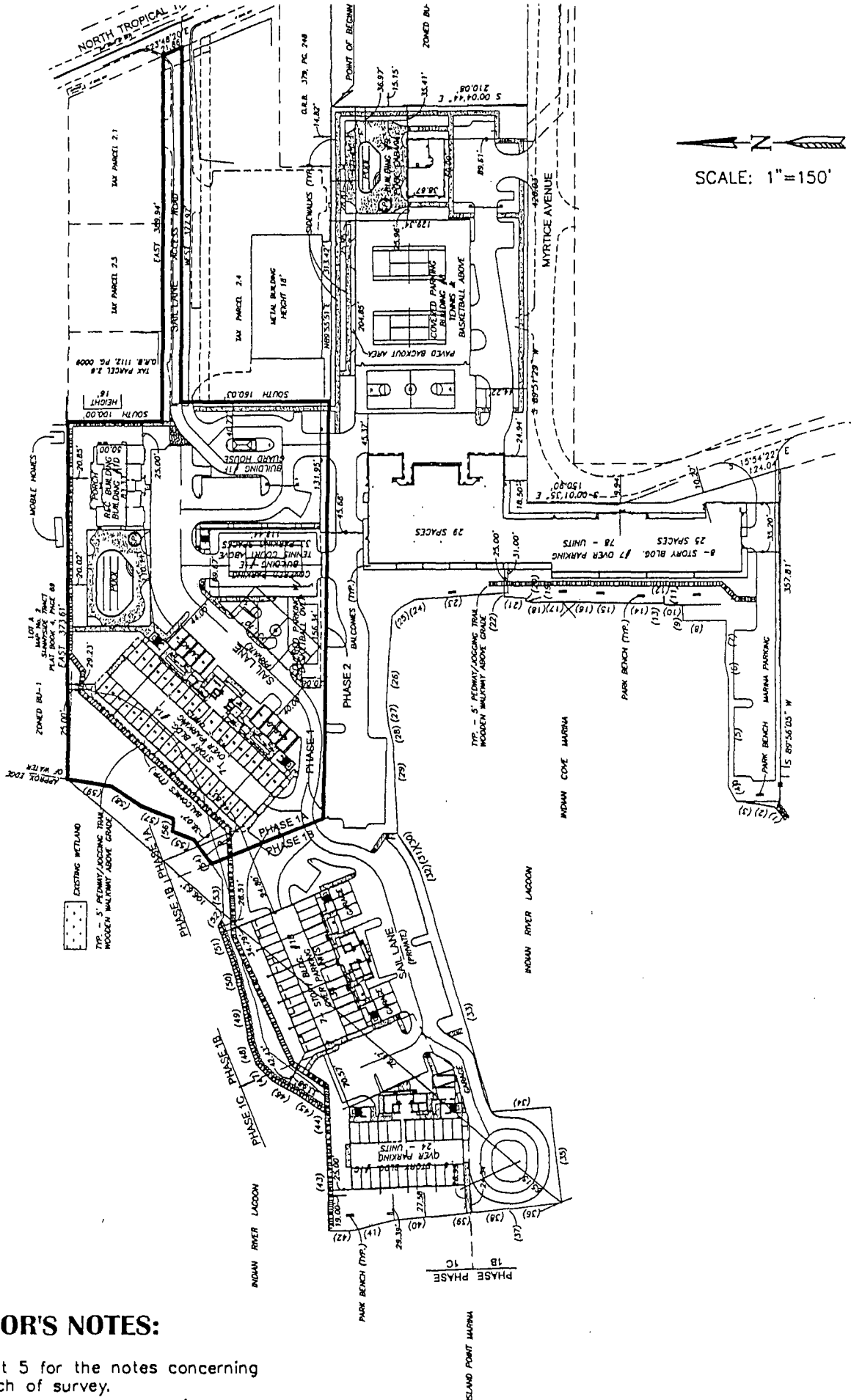
JR Book/Page: 5374 / 2617

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 1 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A GRAPHIC PLOT PLAN



SCALE: 1" = 150'

- SURVEYOR'S NOTES:**
1. See sheet 5 for the notes concerning the sketch of survey.
 2. See sheet 5 for the surveyor's certification.
 3. See sheet 4 for the description of the condominium owned property.



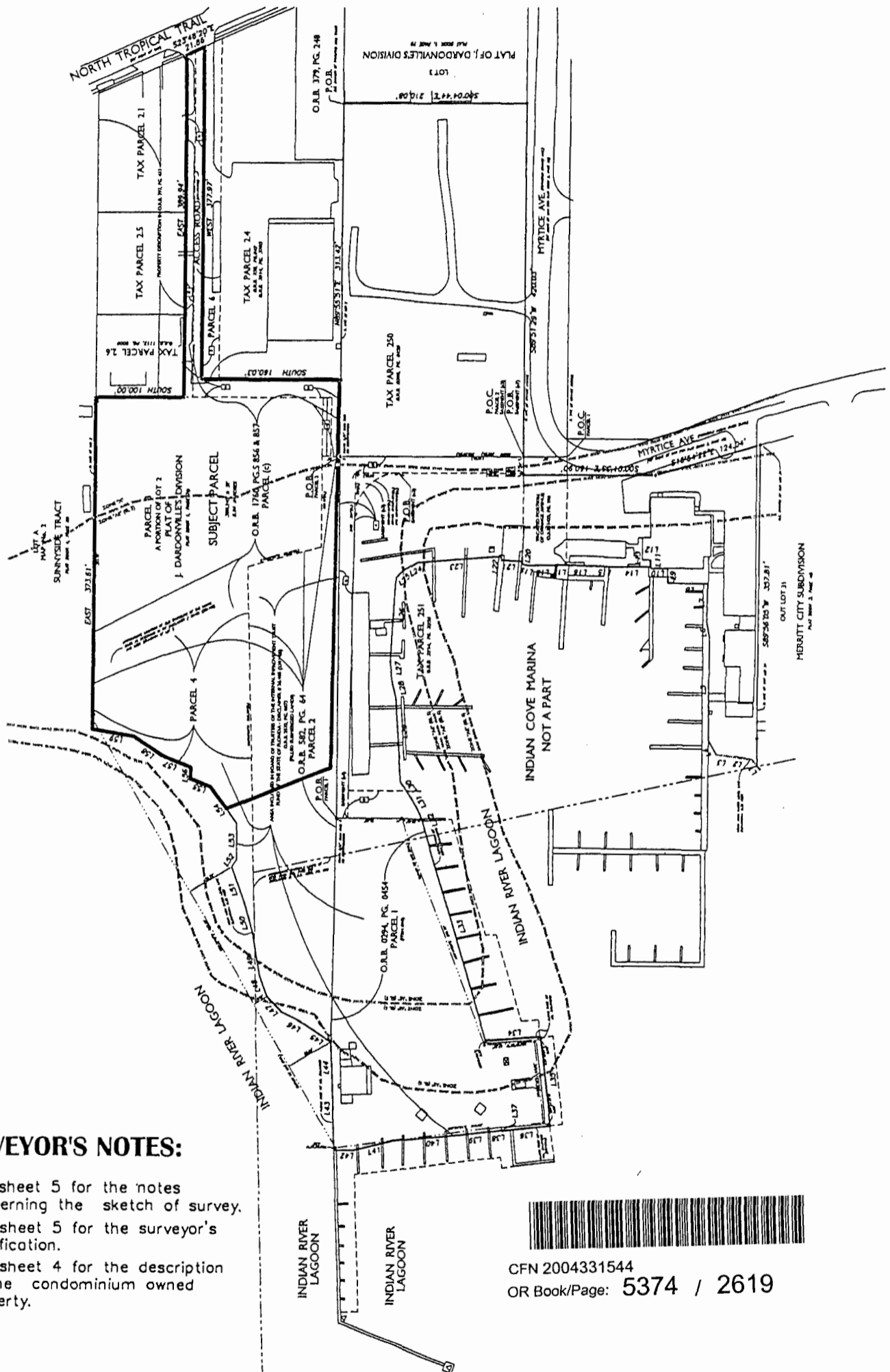
CFN 2004331544
OR Book/Page: 5374 / 2618

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

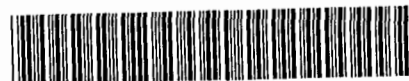
SHEET 2 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A SKETCH OF BOUNDARY SURVEY



SURVEYOR'S NOTES:

1. See sheet 5 for the notes concerning the sketch of survey.
2. See sheet 5 for the surveyor's certification.
3. See sheet 4 for the description of the condominium owned property.



CFN 2004331544
OR Book/Page: 5374 / 2619

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 3 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

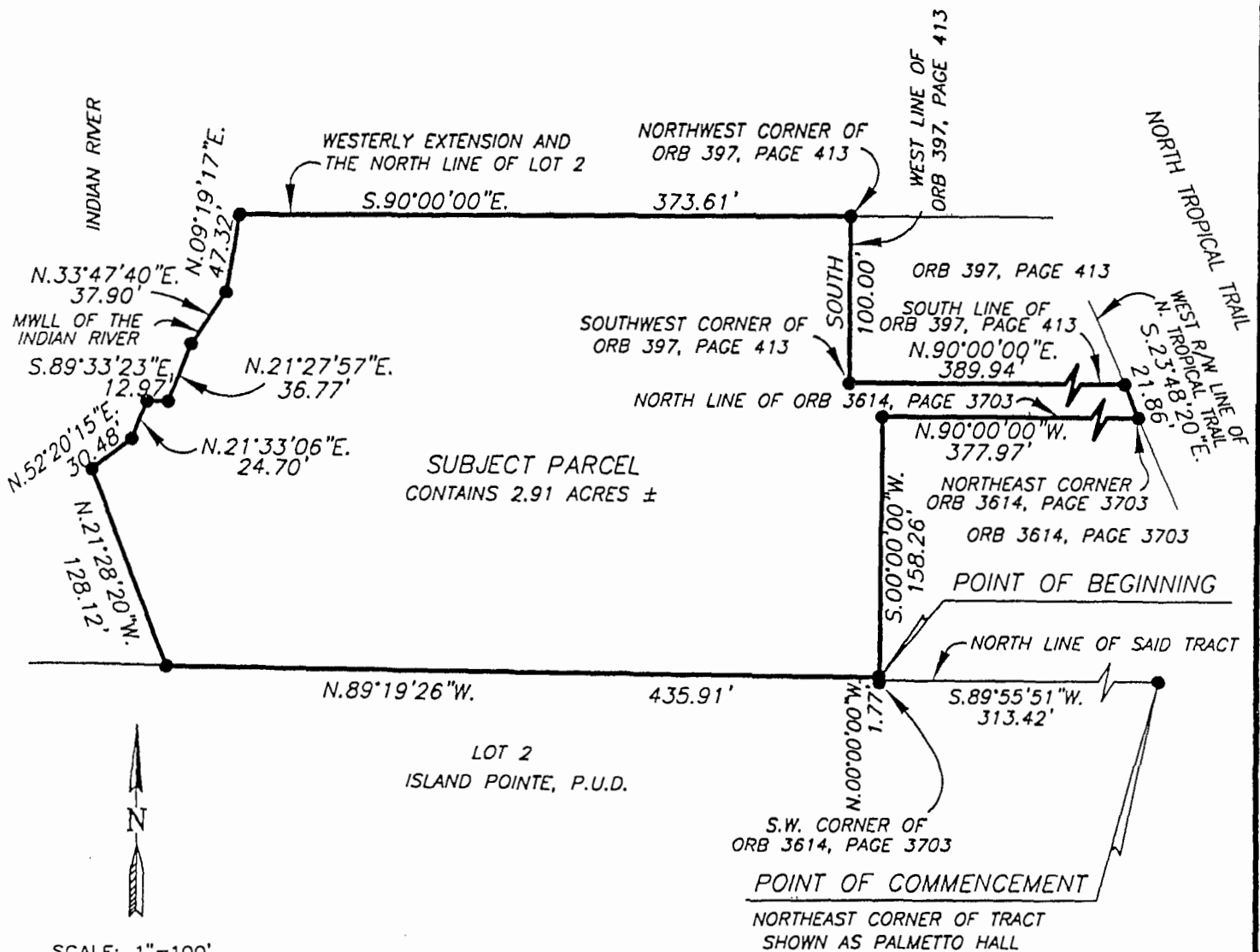
DESCRIPTION: ISLAND POINTE PHASE 1A

A portion of Lot 1 of Island Pointe, P.U.D., according to the plat thereof as recorded in Plat Book ___, Page ___ of the Public Records of Brevard County, Florida also being a portion of Section 35, Township 24 South, Range 36 East, Brevard County, being more particularly described as follows:

Commence at the Northeast corner of the Tract shown as Palmetto Hall on the PLAT OF J. DARDONVILLE'S DIVISION according to the plat thereof as recorded in Plat Book 1, Page 79 of the Public Records of Brevard County, Florida; thence S89°55'51"W, along the North line of said Tract, a distance of 313.42 feet, to the Southwest corner of lands described in Official Records Book 3614, Page 3703 of the Public Records of Brevard County, Florida; thence North, along the West line of said lands, a distance of 1.77 feet, to the POINT OF BEGINNING of the herein described parcel; thence N89°19'26"W, a distance of 435.91 feet; thence N21°28'20"W, a distance of 128.12 feet, to a point on the Mean High Water Level Line of the Indian River; thence the following 6 courses along said Mean High Water Level Line: (1) N52°20'15"E, a distance of 30.48 feet; (2) N21°33'06"E, a distance of 24.70 feet; (3) S89°33'23"E, a distance of 12.97 feet; (4) N21°27'57"E, a distance of 36.77 feet; (5) N33°47'40"E, a distance of 37.90 feet; (6) N09°19'17"E, a distance of 47.32 feet, to a point on the Westerly extension of Lot 2 of said PLAT OF J. DARDONVILLE'S DIVISION; thence East, along said Westerly extension and the North line of said Lot 2, a distance of 373.61 feet, to the Northwest corner of lands described in Official Records Book 397, Page 413 of the Public Records of Brevard County, Florida; thence SOUTH, along the West line of said Lands, a distance of 100.00 feet, to the Southwest corner of said lands; thence East, along the South line of said lands, a distance of 389.94 feet, to a point on the West right of way line of North Tropical Trail (a 60.00 foot wide right of way); thence S23°48'20"E, along said West right of way line, a distance of 21.86 feet, to the Northeast corner of the aforesaid lands described in Official Records Book 3614, Page 3703; thence West, along the North line of said lands, a distance of 377.97 feet, to the Northwest corner of said lands; thence South, along the West line of said lands, a distance of 158.26 feet, to the POINT OF BEGINNING; Containing 2.91 acres, more or less.



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DR Book/Page: 5374 / 2620



ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 4 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

SURVEYOR'S NOTES CONCERNING SKETCH OF SURVEY:

1. The bearings shown hereon are based on an assumed bearing for the North line of Lot 2, PLAT OF J. DARDONVILLE'S DIVISION, bearing N90°00'00"E.
2. According to the National Flood Insurance Program, Flood Insurance Rate Map (F.I.R.M.) for Brevard County, Florida and Incorporated Areas, Panel 355 of 727, this property is located in community number 125092 and lies within Special Flood Hazard Area AE, Base Flood Elevation 6; Special Flood Hazard Area AE, Base Flood Elevation 5; and Other Area Zone X. Special Flood Hazard Area AE is defined on the F.I.R.M. as "AREAS INUNDATED BY 100-YEAR FLOOD", Other Area Zone X is defined as "AREAS DETERMINED TO BE OUTSIDE THE 500 YEAR FLOOD PLAIN".
3. The wetland areas shown were reviewed in the field by Mary Kutz and Courtney Lowrance, on January 14, 2002.
4. The site is currently zoned P.U.D. by Brevard County, Florida.
5. The access to the site is via North Tropical Trail (paved) and Myrtice Avenue (paved). Both roads are reported to be maintained by Brevard County and are open to the public.

SURVEYOR'S NOTES CONCERNING THE GRAPHIC PLOT PLAN:

1. Island Pointe, A Condominium, Phase 1A, contains Building 1A, a one (1) 8-story, 49 unit building with 49 garage parking spaces. It also contains 110 regular parking spaces and 7 handicap parking spaces; for a total of 117 parking spaces; a recreation building; swimming pool, tennis court; guard house; and a covered parking area, containing 33 parking spaces.
2. The balance of improvements constructed by the developer consists of driveways, walkways, parking and open landscaped areas.
3. All areas and improvements exclusive of the units are common elements of the condominium, as set forth in the Declaration of Condominium.
4. The graphic plot plan was prepared under the direction of Robert M. Salmon, Professional Land Surveyor, No. 4262, State of Florida, from an Engineering Site and Striping Plan, prepared by Allen Engineering, Inc.



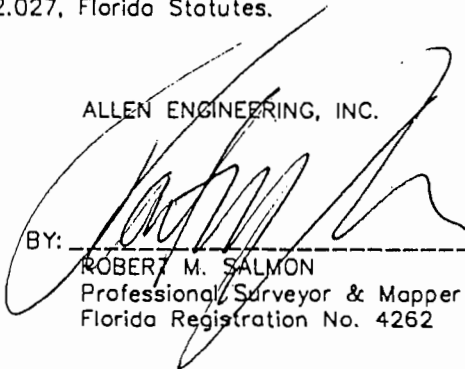
CFN 2004331544
OR Book/Page: 5374 / 2621

SURVEYOR'S CERTIFICATION:

I hereby certify to the best of my knowledge and belief the Sketch of Survey shown on Sheet 3 is an accurate representation of a survey made under my direction, in accordance with all applicable requirements of the "Minimum Technical Standards," for land surveying in the State of Florida, described in Chapter 61G17-6, Florida Administrative Code, Pursuant to Chapter 472.027, Florida Statutes.

Not valid without the signature
and the original raised seal of a
Florida licensed surveyor and mapper.

ALLEN ENGINEERING, INC.

BY: 
ROBERT M. SALMON
Professional Surveyor & Mapper
Florida Registration No. 4262

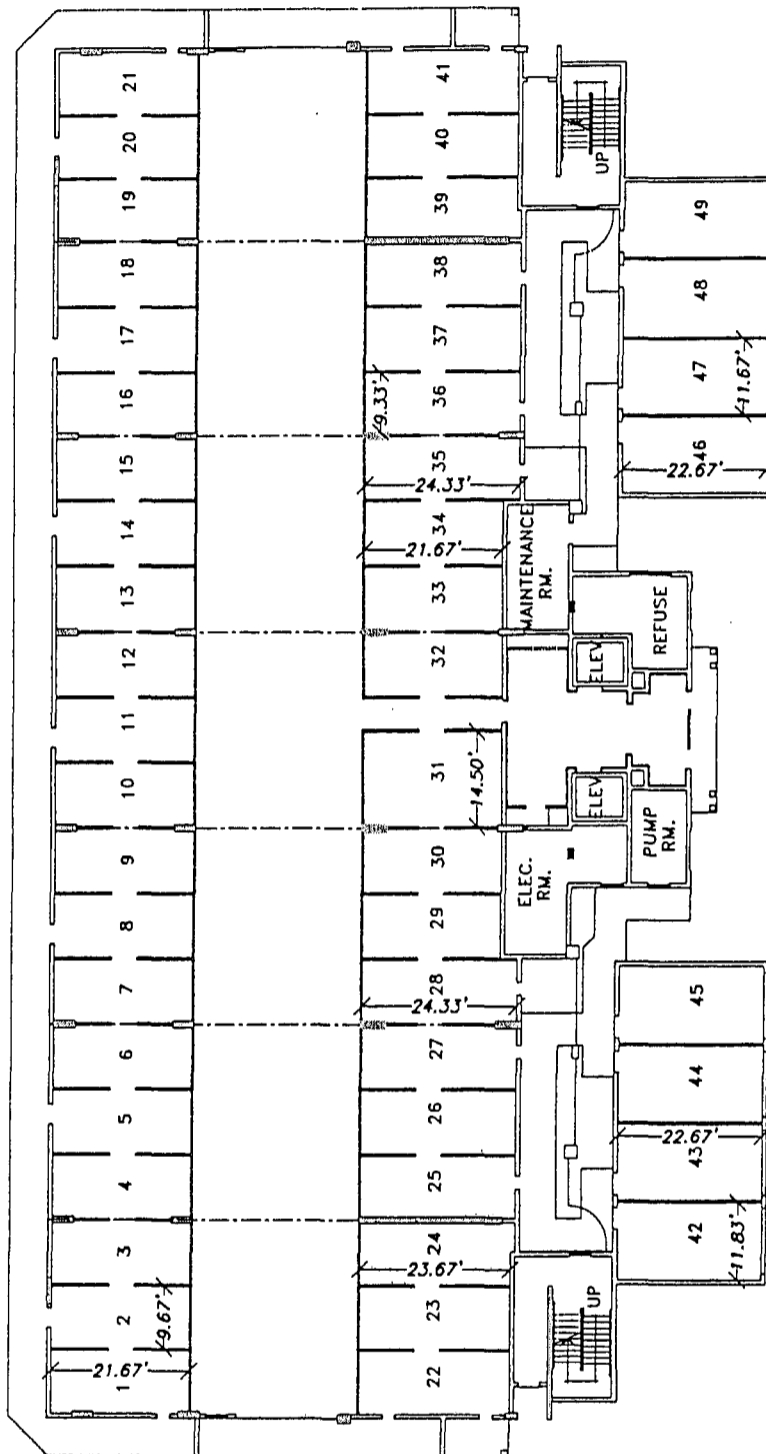
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 5 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - GARAGE FLOOR PLAN



SCALE: 1" = 30'

SURVEYOR'S NOTES:

1. The finished first floor elevation is 9.60 feet.
2. The finished first floor ceiling elevation is 18.93 feet.
3. The garage spaces shown are common elements of the condominium limited to the use of certain units as set forth in the declaration.
4. The elevations shown are based on National Geodetic Vertical Datum of 1929.
5. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.



CFN 2004331544

OR Book/Page: 5374 / 2622

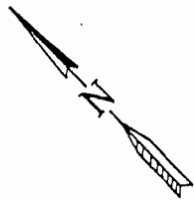
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

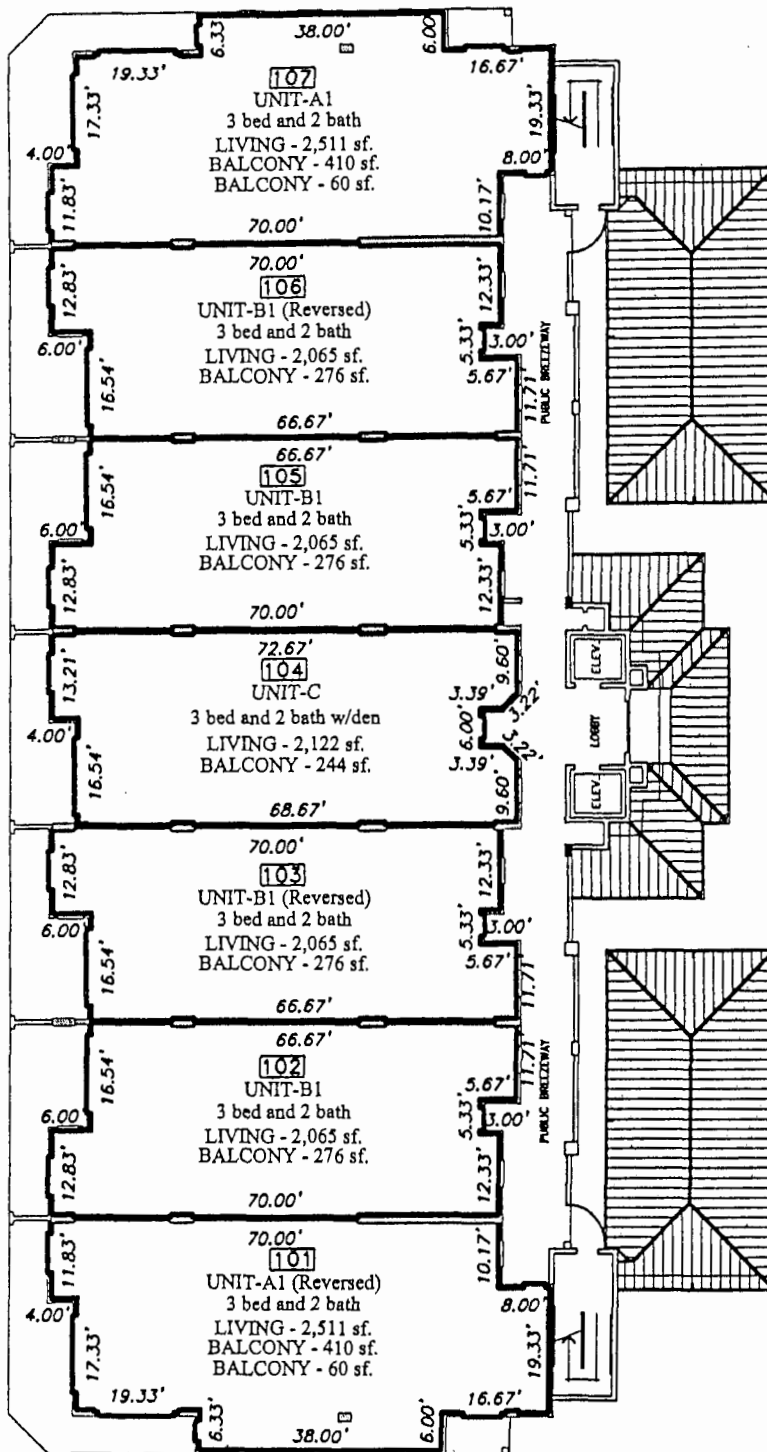
SHEET 6 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - FIRST FLOOR PLAN



SCALE: 1"=30'



SURVEYOR'S NOTES:

1. The finished second floor elevation is 19.60 feet.
2. The finished ceiling elevation is 27.27 feet.
3. ——— Indicates the limits of the units.
4. **101** Indicates the unit number designation.
5. All areas and improvements exclusive of the units are common elements of the condominium.
6. The elevations shown are based on National Geodetic Vertical Datum of 1929.
7. The exterior walkways are common elements limited for the use of the adjacent unit.
8. See sheets 14 through 16 for typical unit plans.
9. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.
10. The unit square foot areas were provided by MRI Architectural Group Inc.



CFN 2004331544

JR Book/Page: 5374 / 2623

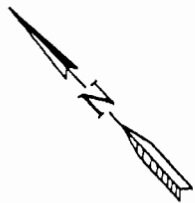
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

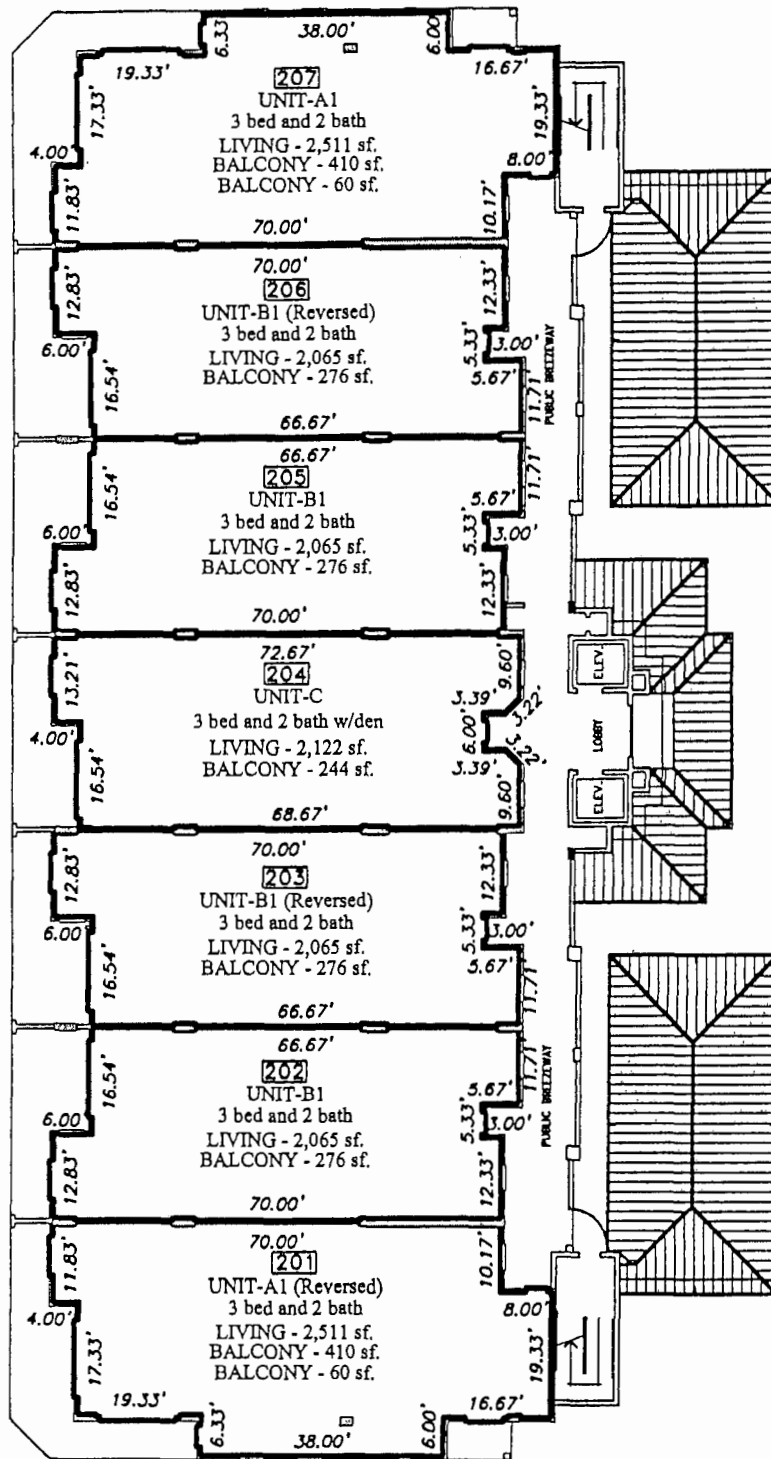
SHEET 7 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - SECOND FLOOR PLAN



SCALE: 1"=30'



SURVEYOR'S NOTES:

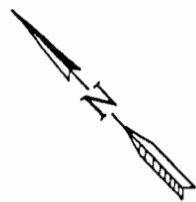
1. The finished third floor elevation is 28.93 feet.
2. The finished ceiling elevation is 37.60 feet.
3. ——— Indicates the limits of the units.
4. **[201]** Indicates the unit number designation.
5. All areas and improvements exclusive of the units are common elements of the condominium.
6. The elevations shown are based on National Geodetic Vertical Datum of 1929.
7. The exterior walkways are common elements limited for the use of the adjacent unit.
8. See sheets 14 through 16 for typical unit plans.
9. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.
10. The unit square foot areas were provided by MRI Architectural Group Inc.



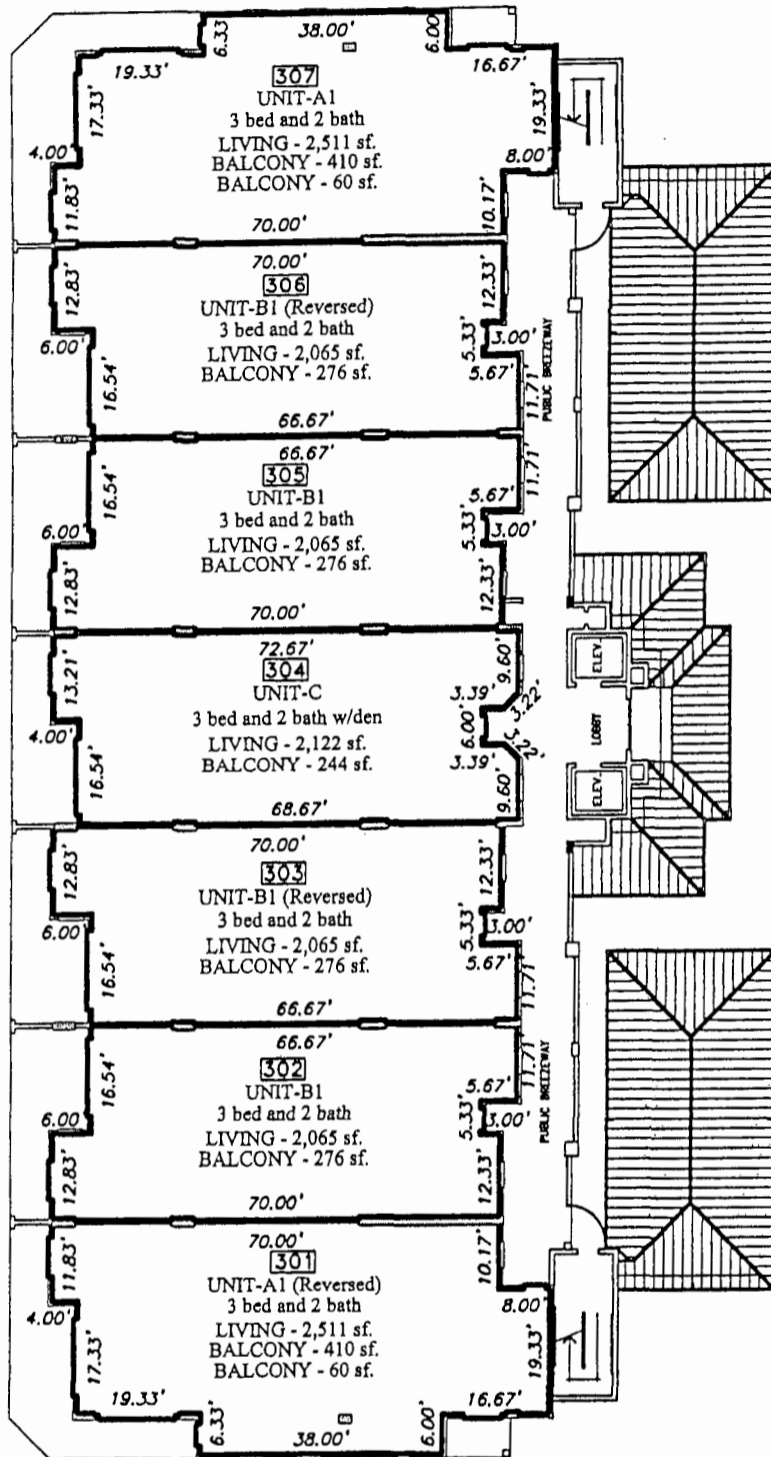
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OR Book/Page: 5374 / 2624

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - THIRD FLOOR PLAN



SCALE: 1"=30'



SURVEYOR'S NOTES:

1. The finished fourth floor elevation is 38.27 feet.
2. The finished ceiling elevation is 46.94 feet.
3. ——— Indicates the limits of the units.
4. [301] Indicates the unit number designation.
5. All areas and improvements exclusive of the units are common elements of the condominium.
6. The elevations shown are based on National Geodetic Vertical Datum of 1929.
7. The exterior walkways are common elements limited for the use of the adjacent unit.
8. See sheets 14 through 16 for typical unit plans.
9. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.
10. The unit square foot areas were provided by MRI Architectural Group Inc.



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OR Book/Page: 5374 / 2625

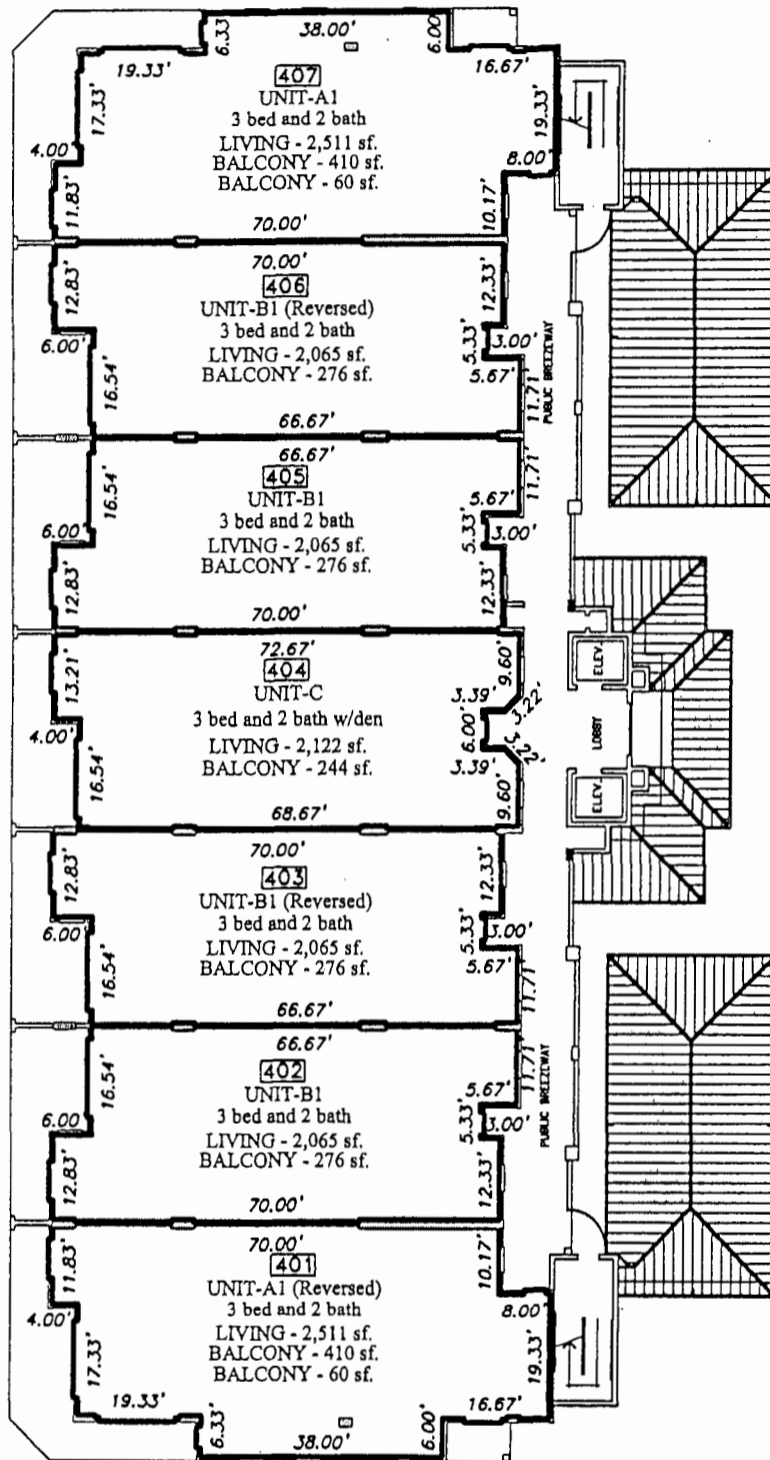
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 9 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - FOURTH FLOOR PLAN



SURVEYOR'S NOTES:

1. The finished fifth floor elevation is 47.60 feet.
2. The finished ceiling elevation is 56.27 feet.
3. ——— Indicates the limits of the units.
4. **401** Indicates the unit number designation.
5. All areas and improvements exclusive of the units are common elements of the condominium.
6. The elevations shown are based on National Geodetic Vertical Datum of 1929.
7. The exterior walkways are common elements limited for the use of the adjacent unit.
8. See sheets 14 through 16 for typical unit plans.
9. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.
10. The unit square foot areas were provided by MRI Architectural Group Inc.



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DR Book/Page: 5374 / 2626

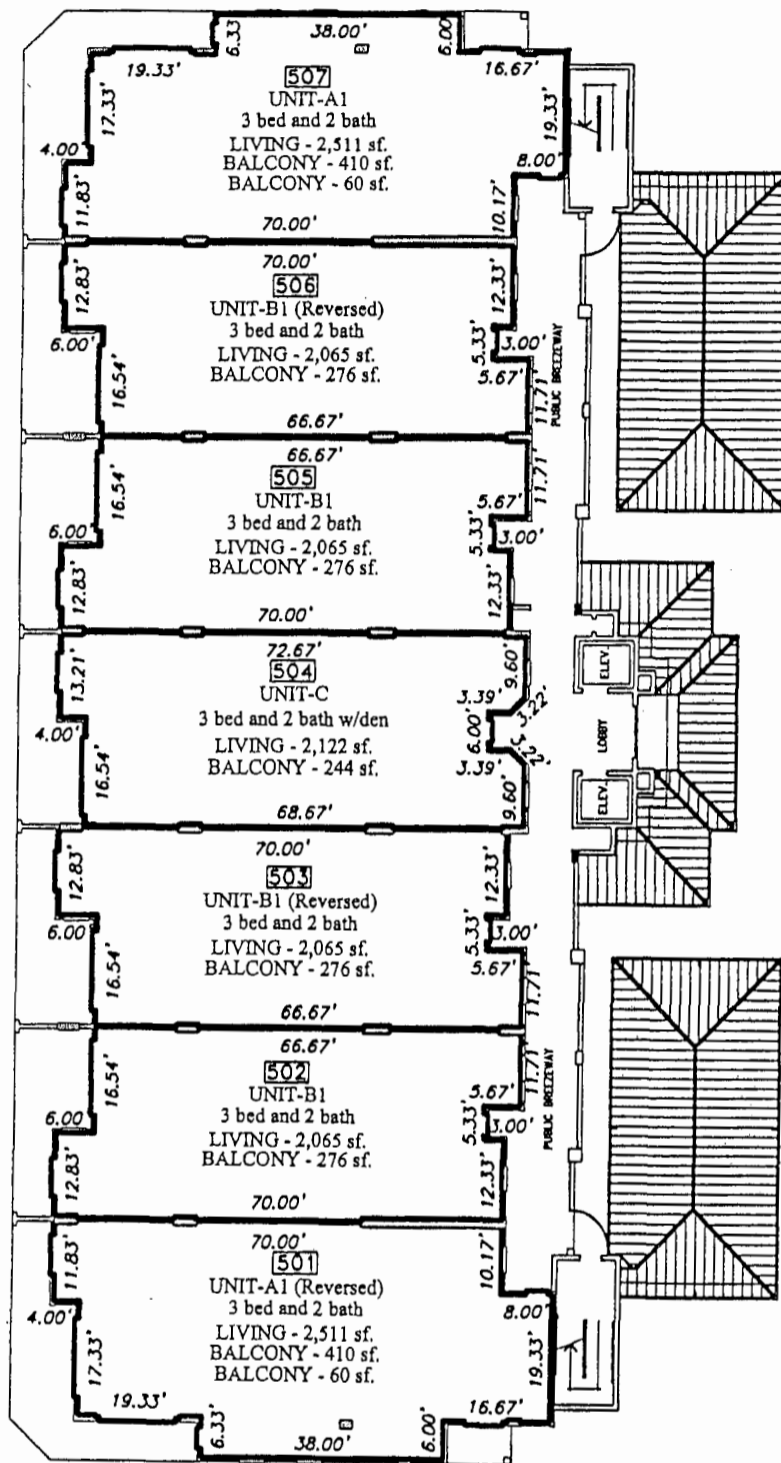
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 10 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - FIFTH FLOOR PLAN



SURVEYOR'S NOTES:

1. The finished sixth floor elevation is 56.93 feet.
2. The finished ceiling elevation is 65.60 feet.
3. ——— Indicates the limits of the units.
4. [507] Indicates the unit number designation.
5. All areas and improvements exclusive of the units are common elements of the condominium.
6. The elevations shown are based on National Geodetic Vertical Datum of 1929.
7. The exterior walkways are common elements limited for the use of the adjacent unit.
8. See sheets 14 through 16 for typical unit plans.
9. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.
10. The unit square foot areas were provided by MRI Architectural Group Inc.



CFN 2004331544

OR Book/Page: 5374 / 2627

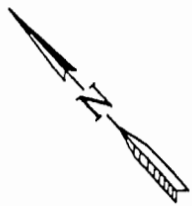
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

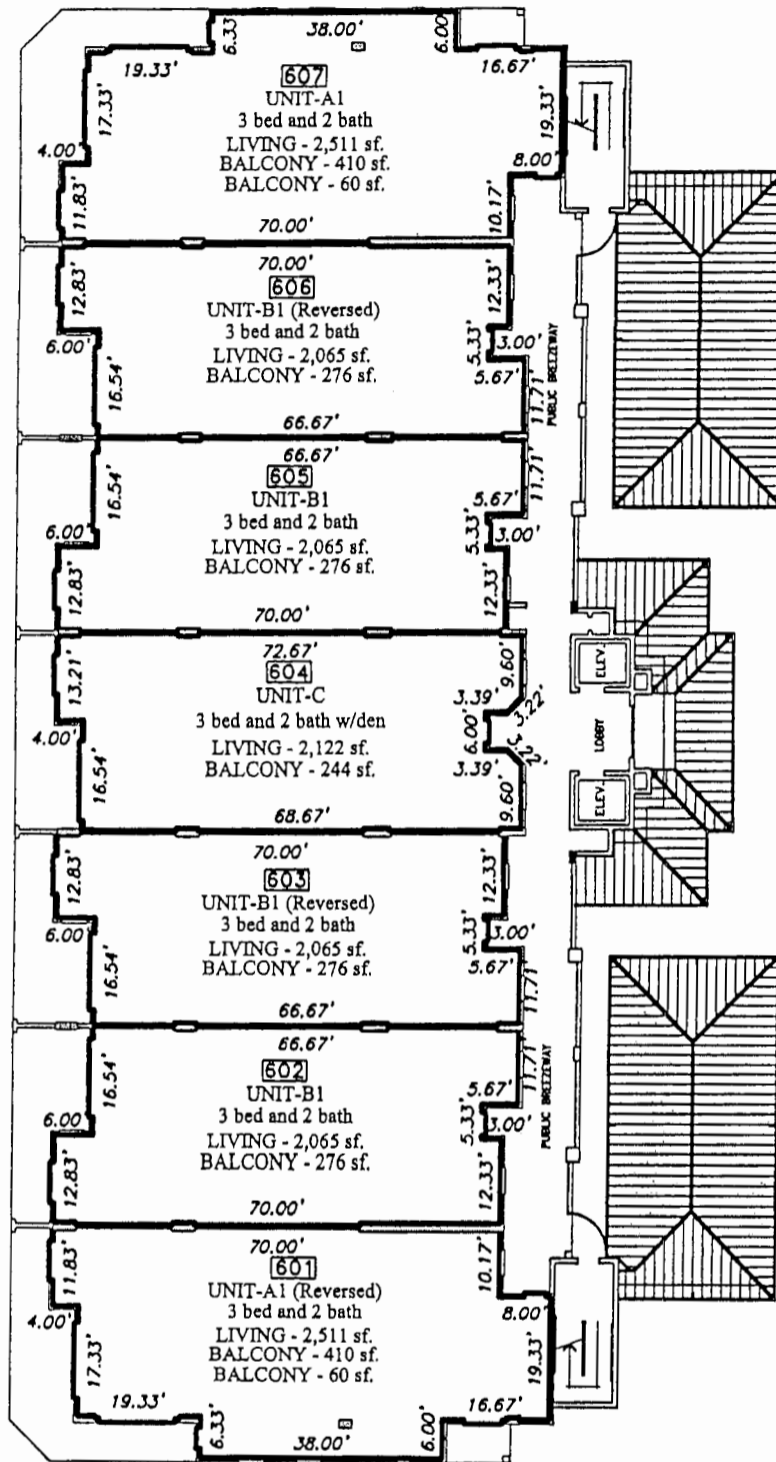
SHEET 11 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - SIXTH FLOOR PLAN



SCALE: 1"=30'



SURVEYOR'S NOTES:

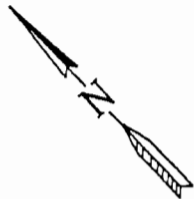
1. The finished seventh floor elevation is 66.27 feet.
2. The finished ceiling elevation is 74.94 feet.
3. ——— Indicates the limits of the units.
4. [601] Indicates the unit number designation.
5. All areas and improvements exclusive of the units are common elements of the condominium.
6. The elevations shown are based on National Geodetic Vertical Datum of 1929.
7. The exterior walkways are common elements limited for the use of the adjacent unit.
8. See sheets 14 through 16 for typical unit plans.
9. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.
10. The unit square foot areas were provided by MRI Architectural Group Inc.



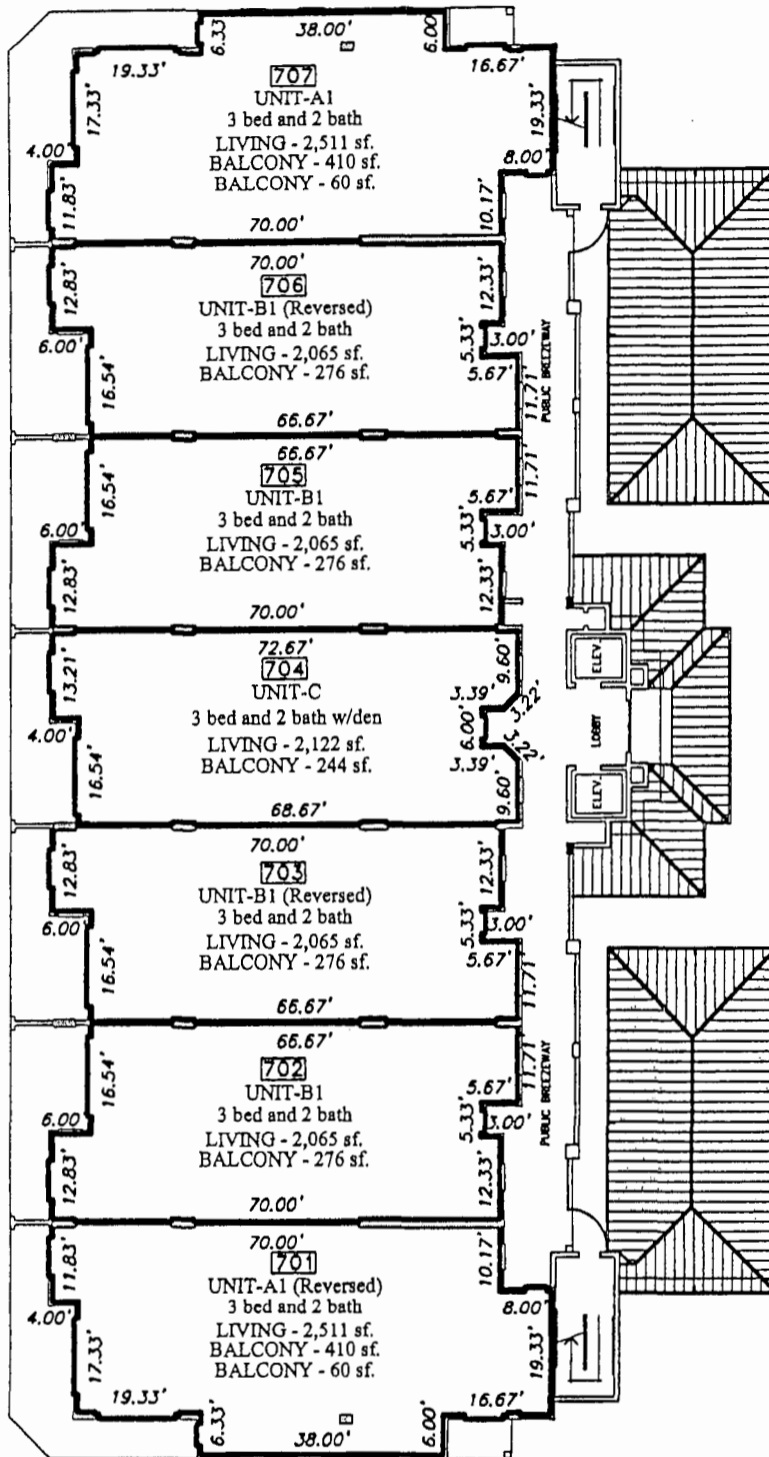
CFN 2004331544
OR Book/Page: 5374 / 2628

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - SEVENTH FLOOR PLAN



SCALE: 1"=30'



SURVEYOR'S NOTES:

1. The finished eighth floor elevation is 75.60 feet.
2. The finished ceiling elevation is 84.93 feet.
3. ——— Indicates the limits of the units.
4. **701** Indicates the unit number designation.
5. All areas and improvements exclusive of the units are common elements of the condominium.
6. The elevations shown are based on National Geodetic Vertical Datum of 1929.
7. The exterior walkways are common elements limited for the use of the adjacent unit.
8. See sheets 14 through 16 for typical unit plans.
9. The floor plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.
10. The unit square foot areas were provided by MRI Architectural Group Inc.



CFN 2004331544

JR Book/Page: 5374 / 2629

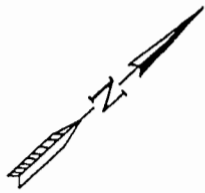
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 13 OF 16

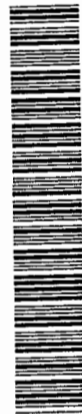
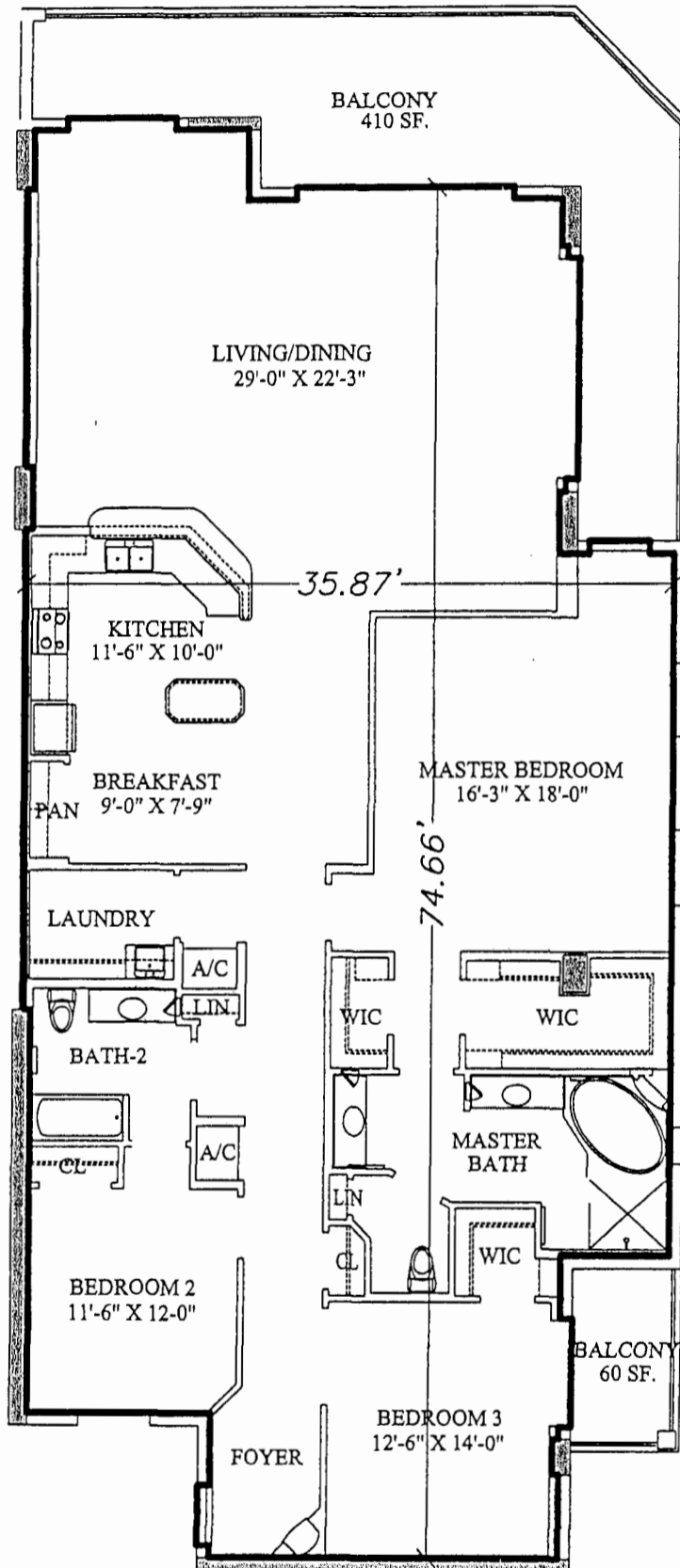
ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - UNIT PLAN A1



SCALE: 1"=10'

UNIT-A1
ISLAND POINTE BLDG. 1
3 bed and 2 bath
LIVING - 2,511 sf.
BALCONY - 410 sf.
BALCONY - 60 sf.
Scale: 1"=10'-0"
08/12/03



CFN 2004331544
OR Book/Page: 5374 / 2630

SURVEYOR'S NOTES:

1. ——— Indicates the limits of the unit.
2. All areas and improvements exclusive of the unit are common elements of the condominium.
3. The unit plan shown is representational. The dimensions shown may vary.
4. Some units may be reversed or a mirror image of the plan shown.
5. Refer to the floor plan on sheets 7 through 13 for the location of this unit within the building.
6. The unit plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.

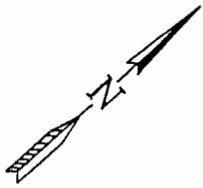
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

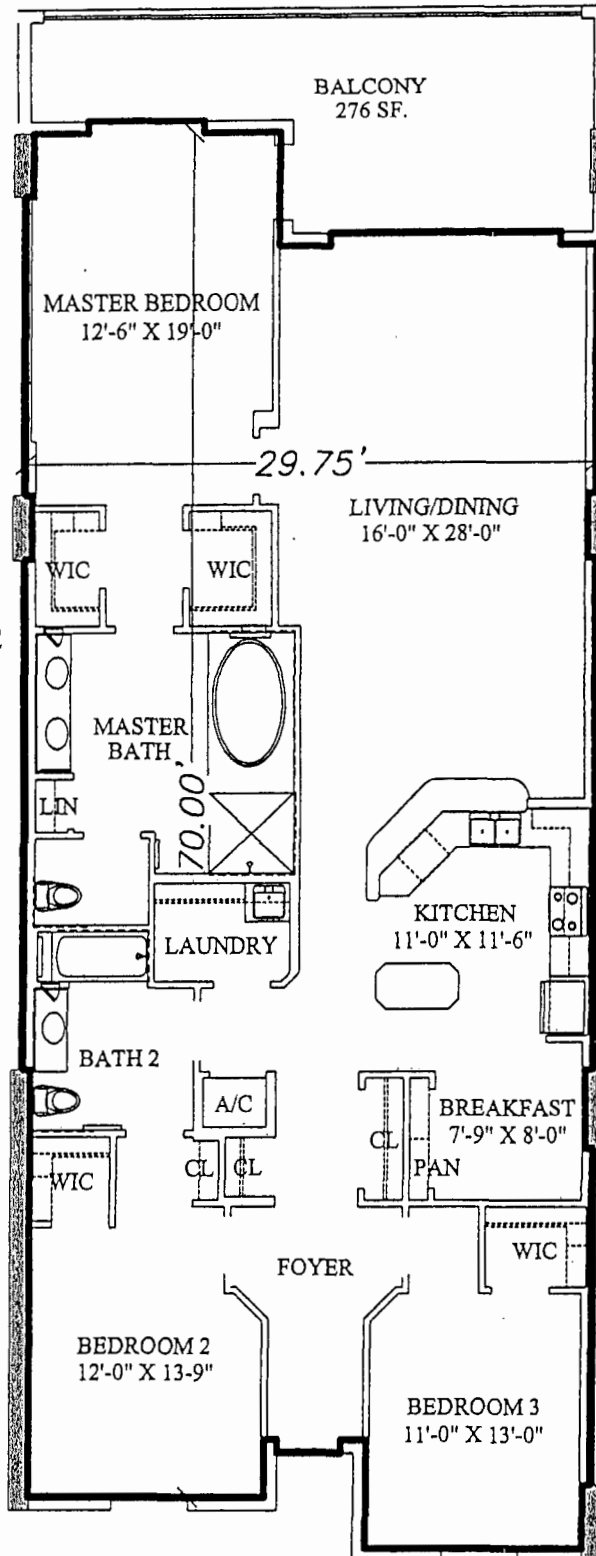
SHEET 14 OF 16

ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - UNIT PLAN B1



SCALE: 1"=10'



UNIT-B1/B2
ISLAND POINTE BLDG. 1 & 2
3 bed and 2 bath
LIVING - 2,065 sf.
BALCONY - 276 sf.
Scale: 1"=10'-0"
08/12/03



CFN 2004331544

OR Book/Page: 5374 / 2631

SURVEYOR'S NOTES:

1. Indicates the limits of the unit.
2. All areas and improvements exclusive of the unit are common elements of the condominium.
3. The unit plan shown is representational. The dimensions shown may vary.
4. Some units may be reversed or a mirror image of the plan shown.
5. Refer to the floor plan on sheets 7 through 13 for the location of this unit within the building.
6. The unit plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.

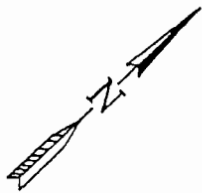
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 15 OF 16

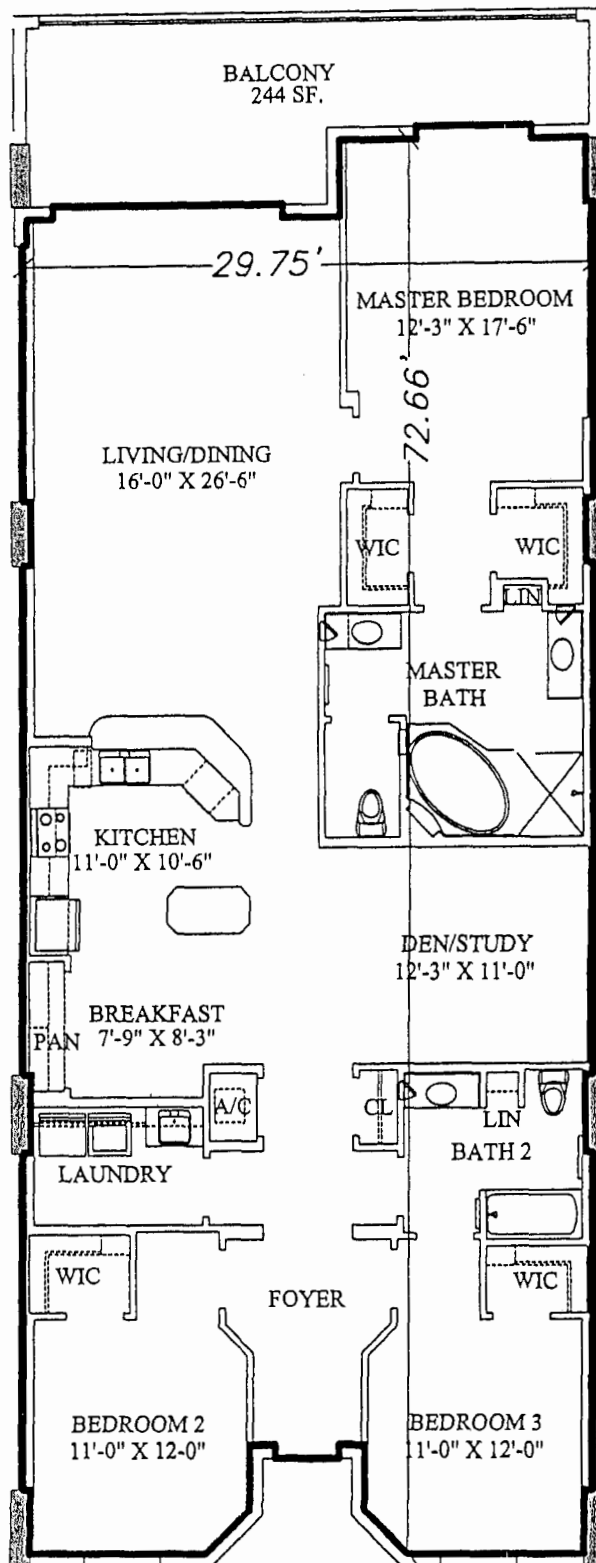
ISLAND POINTE, A CONDOMINIUM PHASE 1A

BUILDING 1A - UNIT PLAN C



SCALE: 1"=10'

UNIT-C
ISLAND POINTE BLDG. 1 & 2
3 bed and 2 bath w/den
LIVING - 2,122 sf.
BALCONY - 244 sf.
Scale: 1"=10'-0"
08/12/03



CFN 2004331544

DR Book/Page: 5374 / 2632

SURVEYOR'S NOTES:

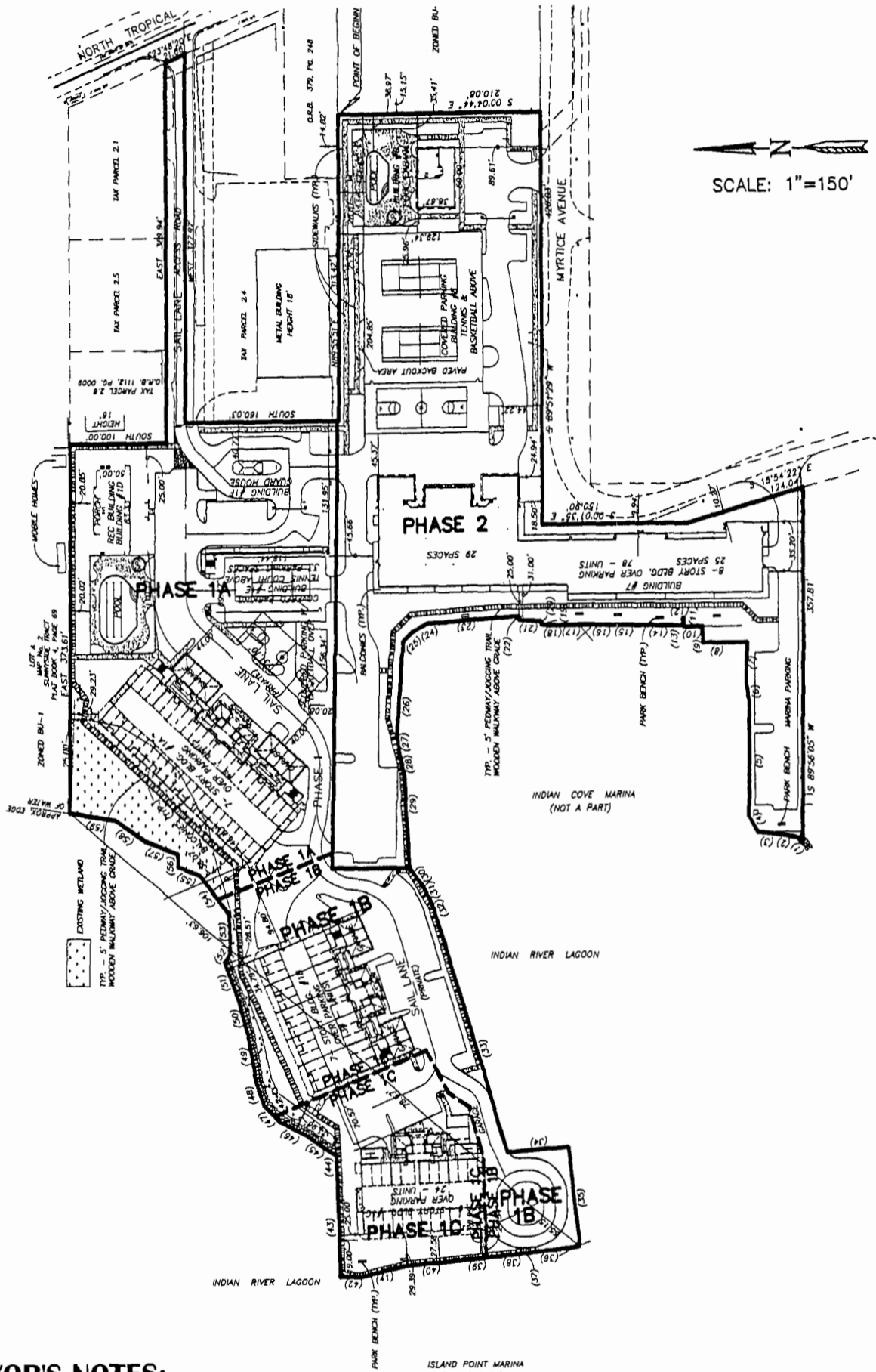
1. ——— Indicates the limits of the unit.
2. All areas and improvements exclusive of the unit are common elements of the condominium.
3. The unit plan shown is representational. The dimensions shown may vary.
4. Some units may be reversed or a mirror image of the plan shown.
5. Refer to the floor plan on sheets 7 through 13 for the location of this unit within the building.
6. The unit plan was prepared by MRI Architectural Group Inc., 3000 North Atlantic Avenue, Cocoa Beach, Florida. This drawing was modified for this exhibit.

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004

EXHIBIT "A"

SHEET 16 OF 16

ISLAND POINTE, A CONDOMINIUM GRAPHIC PLOT PLAN OF PROPOSED IMPROVEMENTS



SURVEYOR'S NOTES:

1. See sheet 2 for the notes concerning the graphic plot plan.
2. See sheet 2 for the surveyor's certification.
3. See sheet 3 for the parent parcel description.



CFN 2004331544
OR Book/Page: 5374 / 2633

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED FEBRUARY 4, 2004

EXHIBIT "B"

SHEET 1 OF 8

ISI ANINDNTECDD DMIIC

ISLAND POINTE, A CONDOMINIUM

SURVEYOR'S NOTES CONCERNING THE GRAPHIC PLOT PLAN:

1. Island Pointe, A Condominium, Phase 1A, contains Building 1A, a one (1) 8-story, 49 unit building with 49 garage parking spaces, a recreation building; swimming pool; tennis court; guard house; and covered parking area containing 33 parking spaces.
2. Island Pointe, A Condominium, Phase 1B, contains Building 1B, consisting of one (1) 8-story, 34 unit building with 35 garage parking spaces.
3. Island Pointe, A Condominium, Phase 1C, contains Building 1C, consisting of one (1) 7-story, 24 unit building with 25 garage parking spaces.
4. Island Pointe, A Condominium, Phase 2 contains one (1) 9-story building containing a maximum of 78 units.
5. The balance of improvements constructed by the developer consists of driveways, walkways, parking and open landscaped areas.
6. All areas and improvements exclusive of the units are common elements of the condominium, as set forth in the Declaration of Condominium.
7. The graphic plot plan was prepared under the direction of Robert M. Salmon, Professional Land Surveyor, No. 4262, State of Florida, from an Engineering Site and Striping Plan, prepared by Allen Engineering, Inc.
8. All improvements shown are proposed.



CFN 2004331544

OR Book/Page: 5374 / 2634

SURVEYOR'S NOTES CONCERNING SKETCH OF SURVEY:

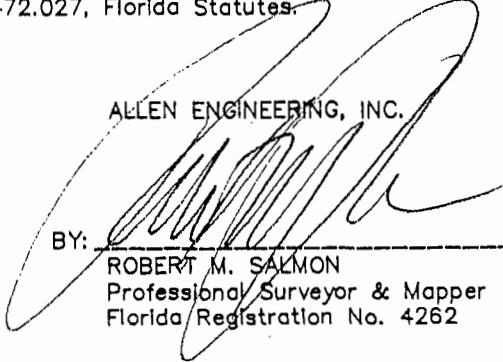
1. The bearings shown hereon are based on an assumed bearing for the North line of Lot 2, PLAT OF J. DARDONVILLE'S DIVISION, bearing N90°00'00"E.
2. According to the National Flood Insurance Program, Flood Insurance Rate Map (F.I.R.M.) for Brevard County, Florida and Incorporated Areas, Panel 355 of 727, this property is located in community number 125092 and lies within Special Flood Hazard Area AE, Base Flood Elevation 6; Special Flood Hazard Area AE, Base Flood Elevation 5; and Other Area Zone X. Special Flood Hazard Area AE is defined on the F.I.R.M. as "AREAS INUNDATED BY 100-YEAR FLOOD", Other Area Zone X is defined as "AREAS DETERMINED TO BE OUTSIDE THE 500 YEAR FLOOD PLAIN".
3. The wetland areas shown were reviewed in the field by Mary Kutz and Courtney Lowrance, on January 14, 2002.
4. The site is currently zoned P.U.D. by Brevard County, Florida.
5. The access to the site is via North Tropical Trail (paved) and Myrtice Avenue (paved). Both roads are reported to be maintained by Brevard County and are open to the public.

SURVEYOR'S CERTIFICATION:

I hereby certify to the best of my knowledge and belief the Sketch of Survey shown on Sheet 4 is an accurate representation of a survey made under my direction, in accordance with all applicable requirements of the "Minimum Technical Standards," for land surveying in the State of Florida, described in Chapter 61G17-6, Florida Administrative Code, Pursuant to Chapter 472.027, Florida Statutes.

Not valid without the signature
and the original raised seal of a
Florida licensed surveyor and mapper.

ALLEN ENGINEERING, INC.

BY: 
ROBERT M. SALMON
Professional Surveyor & Mapper
Florida Registration No. 4262

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED JANUARY 28, 2004

EXHIBIT "B"

SHEET 2 OF 8

ISLAND POINTE, A CONDOMINIUM PARENT PARCEL DESCRIPTION

DESCRIPTION:

All of ISLAND POINTE, P.U.D. according to the plat thereof recorded in Plat Book _____, Page ____ of the Public Records of Brevard County, Florida and a Portion of Section 35, Township 24 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Begin at the Northeast corner of the Tract shown as Palmetto Hall on the PLAT OF J. DARDONVILLE'S DIVISION according to the plat thereof as recorded in Plat Book 1, Page 79 of the Public Records of Brevard County, Florida; thence S00°04'44"E, along the East line of said Tract, a distance of 210.08 feet, to a point on the North right of way line of Myrtle Avenue (a 50.00 foot wide right of way formerly shown as Orange Avenue on the plot of MERRITT CITY SUBDIVISION as recorded in Plat Book 3, Page 45 of the Public Records of Brevard County, Florida); thence S89°51'29"W, along said North right of way line, a distance of 420.03 feet, to a point on the Northerly extension of the West right of way Line of Myrtle Avenue (a 40.00 foot wide right of way formerly shown as Indian River Boulevard on said plat of MERRITT CITY SUBDIVISION); thence S00°01'35"E, along said Northerly extension and said West right of way line, a distance of 150.90 feet; thence S15°54'22"E, along said West right of way line, a distance of 124.04 feet, to the Northeast corner of Outlot 31 as shown on said plat of MERRITT CITY SUBDIVISION; thence S89°56'05"W, along said North line, a distance of 357.81 feet, to a point on the Mean High Water Level Line of the Indian River; thence meander the following 57 courses along said Mean High Water Level Line: (1) N46°44'07"E, a distance of 8.88 feet; (2) N09°19'49"E, a distance of 20.70 feet; (3) N06°23'42"E, a distance of 19.76 feet; (4) N60°54'12"E, a distance of 18.71 feet; (5) N89°54'06"E, a distance of 113.88 feet; (6) N78°55'14"E, a distance of 17.22 feet; (7) S89°17'14"E, a distance of 43.23 feet; (8) N00°11'27"W, a distance of 46.02 feet; (9) N89°35'23"E, a distance of 16.85 feet; (10) N00°24'37"W, a distance of 19.35 feet; (11) N89°35'23"E, a distance of 8.99 feet; (12) N00°24'37"W, a distance of 0.92 feet; (13) N88°56'48"W, a distance of 7.42 feet; (14) N00°11'38"E, a distance of 46.87 feet; (15) N01°29'20"E, a distance of 27.63 feet; (16) N00°55'26"E, a distance of 18.24 feet; (17) N00°28'50"E, a distance of 35.41 feet; (18) N03°27'43"W, a distance of 11.24 feet; (19) N12°11'22"E, a distance of 8.26 feet; (20) S85°30'15"E, a distance of 3.00 feet; (21) N03°26'20"E, a distance of 23.16 feet; (22) S86°43'14"E, a distance of 4.10 feet; (23) N04°10'03"W, a distance of 95.82 feet; (24) N27°52'46"W, a distance of 18.42 feet; (25) N44°04'47"W, a distance of 12.37 feet; (26) N86°26'56"W, a distance of 94.77 feet; (27) S83°05'27"W, a distance of 20.53 feet; (28) S76°01'03"W, a distance of 20.25 feet; (29) S86°21'25"W, a distance of 94.16 feet; (30) S53°04'47"W, a distance of 23.05 feet; (31) S61°38'15"W, a distance of 15.33 feet; (32) S61°29'28"W, a distance of 10.23 feet; (33) S72°49'37"W, a distance of 263.92 feet; (34) S04°23'45"E, a distance of 62.20 feet; (35) S83°08'11"W, a distance of 102.01 feet; (36) N07°00'13"W, a distance of 70.37 feet; (37) N06°32'36"W, a distance of 41.68 feet; (38) N05°10'47"W, a distance of 69.47 feet; (39) N13°54'40"W, a distance of 47.45 feet; (40) N00°38'16"E, a distance of 21.50 feet; (41) N87°52'09"E, a distance of 102.93 feet; (42) N86°48'05"E, a distance of 21.89 feet; (43) N33°22'31"E, a distance of 36.40 feet; (44) N27°40'56"E, a distance of 30.85 feet; (45) N45°11'02"E, a distance of 23.79 feet; (46) N69°36'27"E, a distance of 26.29 feet; (47) N80°03'14"E, a distance of 46.40 feet; (48) N74°25'37"E, a distance of 38.65 feet; (49) N70°01'41"E, a distance of 43.05 feet; (50) S57°11'11"E, a distance of 10.55 feet; (51) N88°17'15"E, a distance of 40.29 feet; (52) N52°20'15"E, a distance of 50.39 feet; (53) N21°33'06"E, a distance of 24.70 feet; (54) S89°33'23"E, a distance of 12.97 feet; (55) N21°27'57"E, a distance of 36.77 feet; (56) N33°47'40"E, a distance of 37.90 feet; (57) N09°19'17"E, a distance of 47.32 feet, to a point on the Westerly extension of the North line of Lot 2 of said PLAT OF J. DARDONVILLE'S DIVISION; thence EAST, along said Westerly extension and the North line of said Lot 2, a distance of 373.61 feet, to the Northwest corner of lands described in Official Records Book 397, Page 413 of the Public Records of Brevard County, Florida; thence SOUTH, along the West line of said lands, a distance of 100.00 feet, to the Southwest corner of said lands; thence EAST, along the South line of said lands, a distance of 389.94 feet, to a point on the West right of way line of North Tropical Trail (a 60.00 foot wide right of way); thence S23°48'20"E, along said West right of way line, a distance of 21.86 feet, to the Northeast corner of lands described in Official Records Book 3614, Page 3703 of the Public Records of Brevard County, Florida; thence WEST, along the North line of said Lands, a distance of 377.97 feet, to the Northwest corner of said lands; thence SOUTH, along the West line of said lands, a distance of 160.03 feet, to the Southwest corner of said lands and a point on the South line of said Lot 2 of said PLAT OF J. DARDONVILLE'S DIVISION; thence N89°55'51"E, along said South line, a distance of 313.42 feet, to the POINT OF BEGINNING; Containing 8.94 acres, more or less.

SURVEYOR'S NOTES:

1. See sheet 4 for the sketch to accompany the Parent Parcel Description.



CFN 2004331544

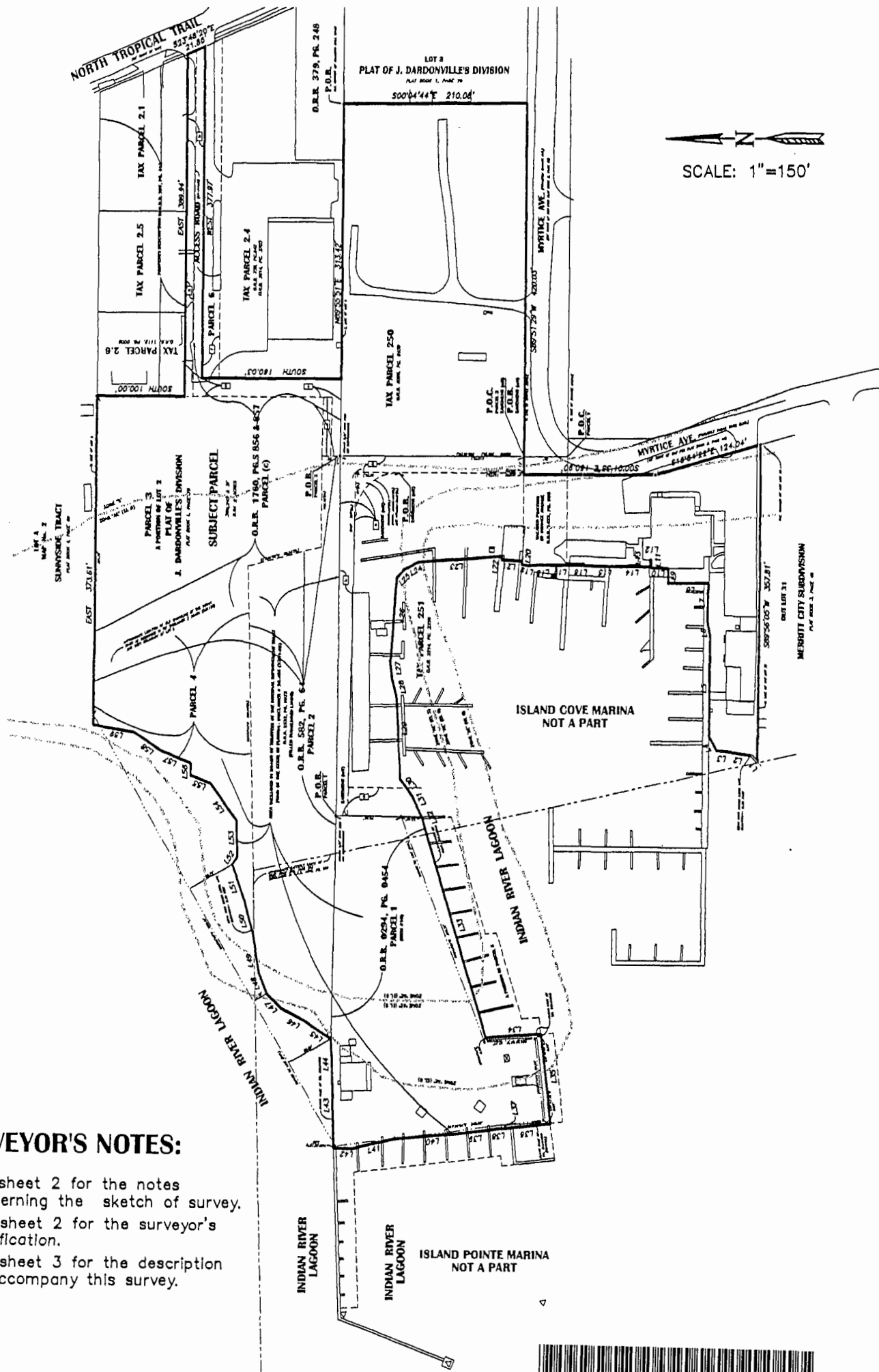
DR Book/Page: 5374 / 2635

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED JANUARY 28, 2004

EXHIBIT "B"

SHEET 3 OF 8

ISLAND POINTE, A CONDOMINIUM BOUNDARY SURVEY - PARENT PARCEL



SURVEYOR'S NOTES:

1. See sheet 2 for the notes concerning the sketch of survey.
2. See sheet 2 for the surveyor's certification.
3. See sheet 3 for the description to accompany this survey.

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED JANUARY 28, 2004

CFN 2004331544
OR Book/Page: 5374 / 2636



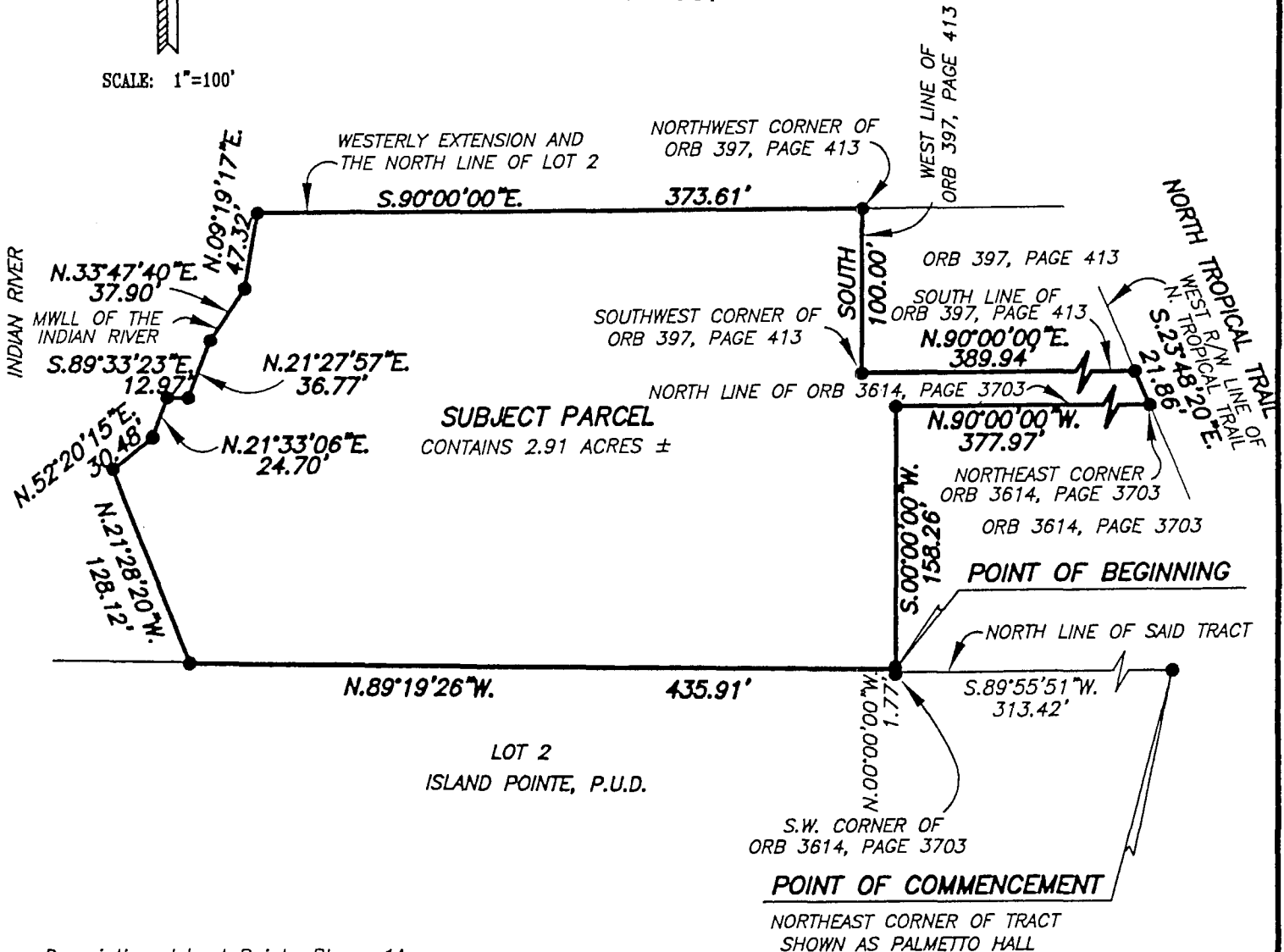
ISLAND POINTE, A CONDOMINIUM PHASE 1A

SKETCH OF SURVEY



CFN 2004331544
OR Book/Page: 5374 / 2637

SCALE: 1"=100'



Description: Island Pointe Phase 1A

A portion of Lot 1 of Island Pointe, P.U.D., according to the plat thereof as recorded in Plat Book ____, Page ____, of the Public Records of Brevard County, Florida also being a portion of Section 35, Township 24 South, Range 36 East, Brevard County, being more particularly described as follows:

Commence at the Northeast corner of the Tract shown as Palmetto Hall on the PLAT OF J. DARDONVILLE'S DIVISION according to the plat thereof as recorded in Plat Book 1, Page 79 of the Public Records of Brevard County, Florida; thence S89°55'51"W, along the North line of said Tract, a distance of 313.42 feet, to the Southwest corner of lands described in Official Records Book 3614, Page 3703 of the Public Records of Brevard County, Florida; thence North, along the West line of said lands, a distance of 1.77 feet, to the POINT OF BEGINNING of the herein described parcel; thence N89°19'26"W, a distance of 435.91 feet; thence N21°28'20"W, a distance of 128.12 feet, to a point on the Mean High Water Level Line of the Indian River; thence the following 6 courses along said Mean High Water Level Line: (1) N52°20'15"E, a distance of 30.48 feet; (2) N21°33'06"E, a distance of 24.70 feet; (3) S89°33'23"E, a distance of 12.97 feet; (4) N21°27'57"E, a distance of 36.77 feet; (5) N33°47'40"E, a distance of 37.90 feet; (6) N09°19'17"E, a distance of 47.32 feet, to a point on the Westerly extension of Lot 2 of said PLAT OF J. DARDONVILLE'S DIVISION; thence East, along said Westerly extension and the North line of said Lot 2, a distance of 373.61 feet, to the Northwest corner of lands described in Official Records Book 397, Page 413 of the Public Records of Brevard County, Florida; thence SOUTH, along the West line of said Lands, a distance of 100.00 feet, to the Southwest corner of said lands; thence East, along the South line of said lands, a distance of 389.94 feet, to a point on the West right of way line of North Tropical Trail (a 60.00 foot wide right of way); thence S23°48'20"E, along said West right of way line, a distance of 21.86 feet, to the Northeast corner of the aforesaid lands described in Official Records Book 3614, Page 3703; thence West, along the North line of said lands, a distance of 377.97 feet, to the Northwest corner of said lands; thence South, along the West line of said lands, a distance of 158.26 feet, to the POINT OF BEGINNING; Containing 2.91 acres, more or less.

SURVEYOR'S NOTES:

1. REFER TO BOUNDARY SURVEY OF THE PARENT PARCEL FOR THE LOCATION OF THE EXISTING IMPROVEMENTS AND ENCROACHMENTS ON THIS SITE.

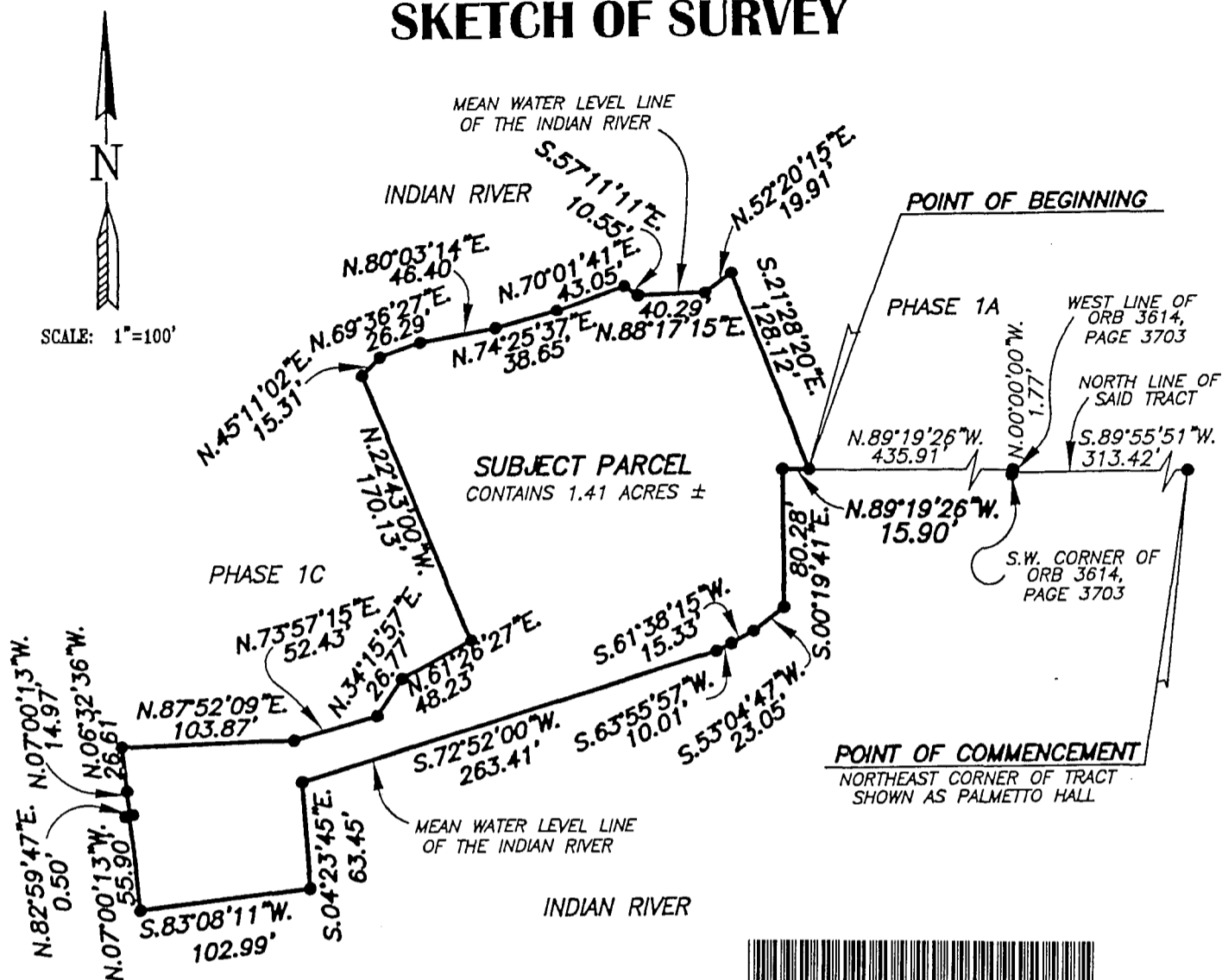
ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED JANUARY 28, 2004

EXHIBIT "B"

SHEET 5 OF 8

ISLAND POINTE, A CONDOMINIUM PHASE 1B

SKETCH OF SURVEY



JFN 2004331544
JR Book/Page: 5374 / 2638

Description: Island Pointe Phase 1B

A portion of Section 35, Township 24 South, Range 36 East, Brevard County, being more particularly described as follows:

Commence at the Northeast corner of the Tract shown as Palmetto Hall on the PLAT OF J. DARDONVILLE'S DIVISION according to the plat thereof as recorded in Plat Book 1, Page 79 of the Public Records of Brevard County, Florida; thence S89°55'51"W, along the North line of said Tract, a distance of 313.42 feet, to the Southwest corner of lands described in Official Records Book 3614, Page 3703 of the Public Records of Brevard County, Florida; thence North, along the West line of said lands, a distance of 1.77 feet; thence N89°19'26"W, a distance of 435.91 feet, to the POINT OF BEGINNING of the herein described parcel; thence continue, N89°19'26"W, a distance of 15.90 feet; thence S00°19'41"E, a distance of 80.28 feet, to a point on the Mean High Water Level Line of the Indian River; thence the following 10 courses along said Mean High Water Level Line: (1) S53°04'47"W, a distance of 23.05 feet; (2) S61°38'15"W, a distance of 15.33 feet; (3) S63°55'57"W, a distance of 10.01 feet; (4) S72°52'00"W, a distance of 263.41 feet; (5) S04°23'45"E, a distance of 63.45 feet; (6) S83°08'11"W, a distance of 102.99 feet; (7) N07°00'13"W, a distance of 55.90 feet; (8) N82°59'47"E, a distance of 0.50 feet; (9) N07°00'13"W, a distance of 14.97 feet; (10) N06°32'36"W, a distance of 26.61 feet; thence N87°52'09"E, a distance of 103.87 feet; thence N73°57'15"E, a distance of 52.43 feet; thence N34°15'57"E, a distance of 26.77 feet; thence N61°26'27"E, a distance of 48.23 feet; thence N22°43'00"W, a distance of 170.13 feet, to a point on the Mean High Water Level Line of the Indian River; thence the following 8 courses along said Mean High Water Level Line: (1) N45°11'02"E, a distance of 15.31 feet; (2) N69°36'27"E, a distance of 26.29 feet; (3) N80°03'14"E, a distance of 46.40 feet; (4) N74°25'37"E, a distance of 38.65 feet; (5) N70°01'41"E, a distance of 43.05 feet; (6) S57°11'11"E, a distance of 10.55 feet; (7) N88°17'15"E, a distance of 40.29 feet; (8) N52°20'15"E, a distance of 19.91 feet; thence S21°28'20"E, a distance of 128.12 feet, to the POINT OF BEGINNING; Containing 1.41 acres, more or less.

SURVEYOR'S NOTES:

- REFER TO BOUNDARY SURVEY OF THE PARENT PARCEL FOR THE LOCATION OF THE EXISTING IMPROVEMENTS AND ENCROACHMENTS ON THIS SITE.

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED JANUARY 28, 2004

EXHIBIT "B"

SHEET 6 OF 8

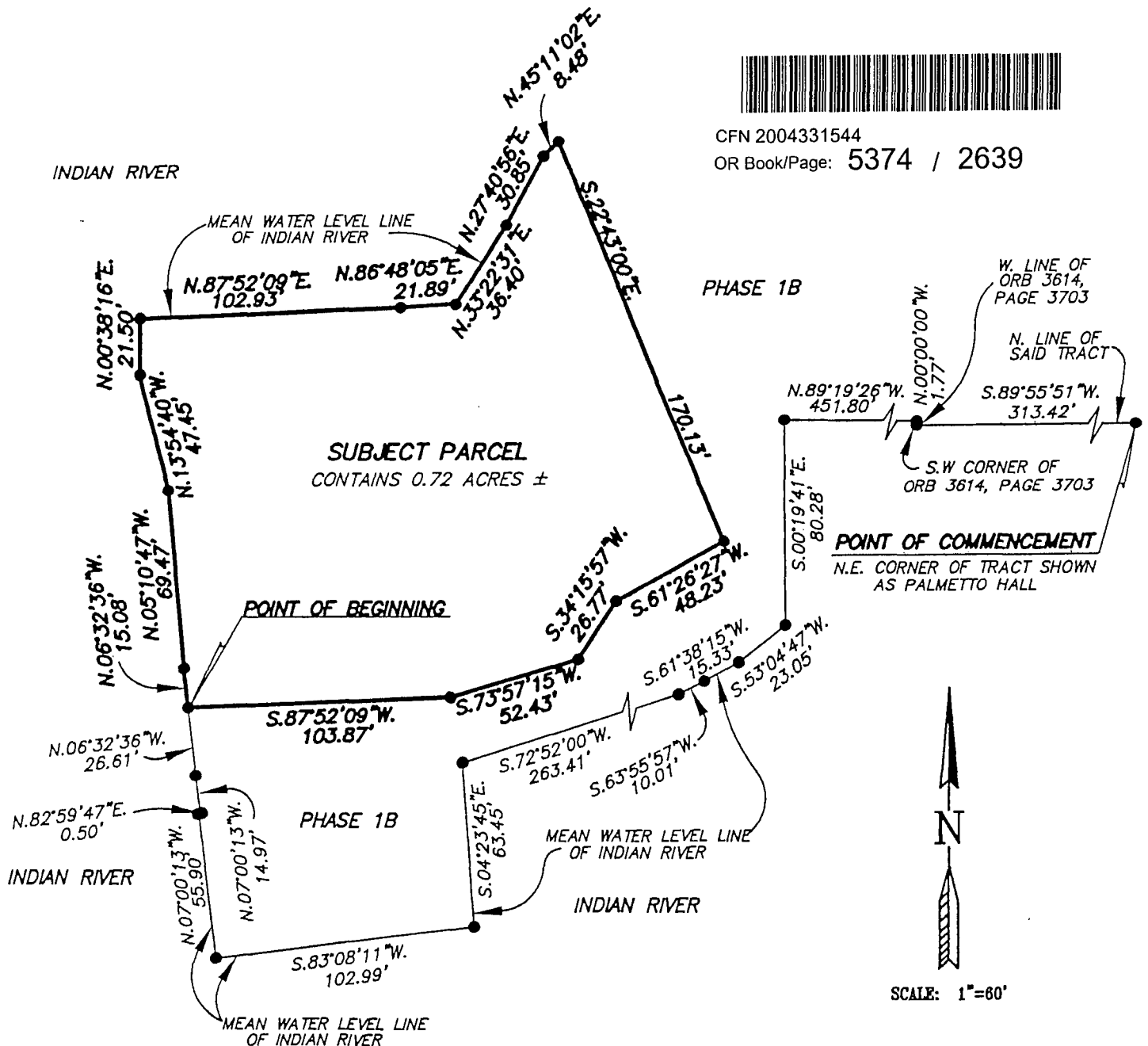
ISLAND POINTE, A CONDOMINIUM PHASE 1C

SKETCH OF SURVEY



CFN 2004331544

OR Book/Page: 5374 / 2639



Description: Island Pointe Phase 1C

A portion of Section 35, Township 24 South, Range 36 East, Brevard County, being more particularly described as follows:

Commence at the Northeast corner of the Tract shown as Palmetto Hall on the PLAT OF J. DARDONVILLE'S DIVISION according to the plat thereof as recorded in Plat Book 1, Page 79 of the Public Records of Brevard County, Florida; thence S89°55'51"W, along the North line of said Tract, a distance of 313.42 feet, to the Southwest corner of lands described in Official Records Book 3614, Page 3703 of the Public Records of Brevard County, Florida; thence North, along the West line of said lands, a distance of 1.77 feet; thence N89°19'26"W, a distance of 451.80 feet; thence S00°19'41"E, a distance of 80.28 feet to a point on the Mean High Water Level Line of the Indian River; thence the following 10 courses along said Mean High Water Level Line: (1) S53°04'47"W, a distance of 23.05 feet; (2) S61°38'15"W, a distance of 15.33 feet; (3) S63°55'57"W, a distance of 10.01 feet; (4) S72°52'00"W, a distance of 263.41 feet; (5) S04°23'45"E, a distance of 63.45 feet; (6) S83°08'11"W, a distance of 102.99 feet; (7) N07°00'13"W, a distance of 55.90 feet; (8) N82°59'47"E, a distance of 0.50 feet; (9) N07°00'13"W, a distance of 14.97 feet; (10) N06°32'36"W, a distance of 26.61 feet, to the POINT OF BEGINNING of the herein described parcel; thence continue, the following 9 courses along said Mean High Water Level Line: (1) N06°32'36"W, a distance of 15.08 feet; (2) N05°10'47"W, a distance of 69.47 feet; (3) N13°54'40"W, a distance of 47.45 feet; (4) N00°38'16"E, a distance of 21.50 feet; (5) N87°52'09"E, a distance of 102.93 feet; (6) N86°48'05"E, a distance of 21.89 feet; (7) N33°22'31"E, a distance of 36.40 feet; (8) N27°40'56"E, a distance of 30.85 feet; (9) N45°11'02"E, a distance of 8.48 feet; thence S22°43'00"E, a distance of 170.13 feet; thence S61°26'27"W, a distance of 48.23 feet; thence S34°15'57"W, a distance of 26.77 feet; thence S73°57'15"W, a distance of 52.43 feet; thence S87°52'09"W, a distance of 103.87 feet, to the POINT OF BEGINNING; Containing 0.72 acres, more or less.

SURVEYOR'S NOTES:

- REFER TO BOUNDARY SURVEY OF THE PARENT PARCEL FOR THE LOCATION OF THE EXISTING IMPROVEMENTS AND ENCROACHMENTS ON THIS SITE.

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED JANUARY 28, 2004

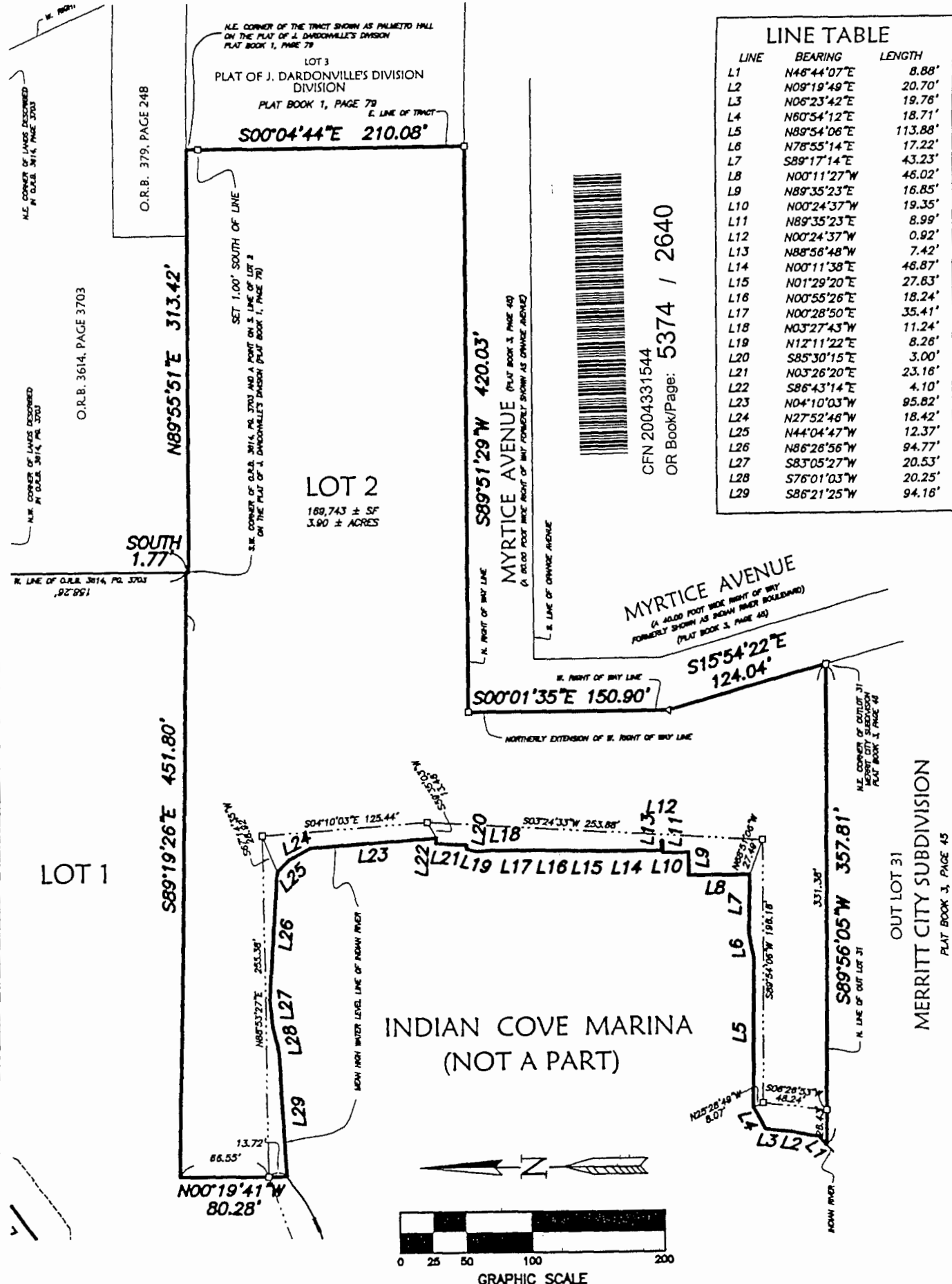
EXHIBIT "B"

SHEET 7 OF 8

157 11/10/2004 10:00 AM

ISLAND POINTE, A CONDOMINIUM PHASE 2

SKETCH OF SURVEY



Description: Island Pointe Phase Two

Lot 2, ISLAND POINTE, P.U.D., according to the plat thereof recorded in Plat Book _____, Page _____, of the Public Records of Brevard County, Florida.

SURVEYOR'S NOTES:

- REFER TO BOUNDARY SURVEY OF THE PARENT PARCEL FOR THE LOCATION OF THE EXISTING IMPROVEMENTS AND ENCROACHMENTS ON THIS SITE.

ALLEN ENGINEERING INC.
106 DIXIE LANE
COCOA BEACH FLORIDA
JANUARY 16, 2004
REVISED JANUARY 28, 2004

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TO ARTICLES OF INCORPORATION
OF
ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC.

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DR Book/Page: 5374 / 2641

EXHIBIT C TO THE DECLARATION
EXHIBIT 2 TO THE PROSPECTUS

ARTICLES OF INCORPORATION
OF
ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC.
(a corporation not for profit)

In order to form a corporation under and in accordance with the provisions of the laws of the State of Florida, for the formation of corporations not for profit, we, the undersigned, hereby associate ourselves into a corporation for the purpose and with the powers hereinafter mentioned; and to that end we do, by these Articles of Incorporation, set forth:

ARTICLE I

NAME

The name of the corporation shall be ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC. The corporation shall be hereinafter referred to as the "Association".

ARTICLE II

PURPOSE

The purposes and objects of the Association shall be to administer the operation and management of a condominium to be established by TOWNE DEVELOPMENT OF ISLAND POINTE, INC., a Florida corporation, hereinafter called Developer, the condominium complex to be established in accordance with the laws of the State of Florida upon the following described property, situate, lying and being in unincorporated Merritt Island, Brevard County, Florida, to-wit:

SEE SHEET 2 OF EXHIBIT "A" ATTACHED HERETO AND INCORPORATED
HEREIN BY REFERENCE AND MADE A PART HEREOF

and to undertake the performance of the acts and duties incident to the administration of the operation and management of said condominium and in accordance with the terms, provisions, conditions and authorizations contained in these articles and which may be contained in the Declaration of Condominium of Island Pointe, a Condominium (the "Declaration") which will be recorded in the Public Records of Brevard County, Florida, at the time said property, and the improvements now or hereafter situate thereon are submitted to a plan of condominium ownership; and to own, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of said condominium. The Association shall be conducted as a non-profit organization for the benefit of its members.

ARTICLE III

POWERS

The Association shall have the following powers:

A. All of the powers and duties granted to corporations and corporations not for profit as set forth in Chapter 617, Florida Statutes, except as expressly limited or restricted by the Florida Condominium Act, and all of the powers and privileges which may be granted unto said Association or exercised by it under any other applicable laws of the State of Florida.

B. All of the powers reasonably necessary to implement and effectuate the purposes of the Association, including, but not limited to:



1. To make and establish reasonable rules and regulations governing the use of condominium units and the common elements in the condominium as said terms may be defined in the Declaration.
2. To levy and collect assessments against members of the Association to defray the common expenses of the condominium as may be provided in the Declaration and in the By-Laws of the Association (the "By-Laws") which may be hereafter adopted, including the right to levy and collect assessments for the purposes of acquiring, operating, leasing, and otherwise trading and dealing with such property, whether real or personal, including the units in the condominium, which may be necessary or convenient in the operation and management of the condominium and in accomplishing the purposes set forth in the Declaration.
3. To maintain, repair, replace, operate and manage the condominium and the property comprising same, including the right to reconstruct improvements after casualty and to make further improvement of the condominium property.
4. To contract for the management and maintenance of the condominium and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules and maintenance of the common elements. The Association shall, however, retain at all times the powers and duties granted them by the Condominium Act, including, but not limited to the making of assessments, promulgation of rules and execution of contracts on behalf of the Association.
5. To enforce the provisions of the Declaration, these Articles of Incorporation, the By-Laws which may be hereafter adopted, and the rules and regulations governing the use of the condominium as the same may be hereafter established.
6. To acquire title to property or otherwise hold, convey, lease, and mortgage association property for the use and benefit of its members. The power to acquire personal property shall be exercised by the Board of Administration of the Association (the "Board of Administration"). Except as otherwise permitted in subsections (8) and (9) of Section 718.111, Florida Statutes, and in Section 718.114, Florida Statutes, no association may acquire, convey, lease, or mortgage association real property except in the manner provided in the Declaration, and if the declaration does not specify the procedure, then approval of seventy-five (75%) percent of the total voting interests shall be required.
7. To exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Association pursuant to the Declaration.
8. The Association shall operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with the St. Johns River Water Management District permit requirements and applicable District rules, and shall assist in the enforcement of the Declaration which relate to the surface water or stormwater management system.
9. The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system.



CFN 2004331544

OR Book/Page: 5374 / 2643

ARTICLE IV

MEMBERS

The qualification of the members, the manner of their admission to membership and termination of such membership, and voting by members shall be as follows:

A. The owners of all condominium units in the condominium shall be members of the Association, and no other persons or entities shall be entitled to membership, except as provided in item E of this Article IV.

B. Membership shall be established by the acquisition of fee title to a unit in the condominium or by acquisition of a fee ownership interest therein, whether by conveyance, devise, judicial decree or otherwise, and the membership of a party shall be automatically terminated upon his being divested of all title to or his entire fee ownership interest in all units in the condominium.

C. The interest of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his condominium unit. The funds and assets of the Association shall belong solely to the Association, subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declaration, and in the said By-Laws.

D. On all matters on which the membership shall be entitled to vote, there shall be only one (1) vote for each unit in the condominium, which vote shall be exercised or cast by the owner or owners of each unit in such manner as may be provided in the By-Laws hereafter adopted. Should any member own more than one (1) unit, such member shall be entitled to exercise or cast as many votes as he owns units, in the manner provided in said By-Laws.

E. Until such time as the property described in Article II hereof is submitted to a plan of condominium ownership by the recordation of said Declaration, the membership of the Association shall be comprised of the subscribers of these Articles, each of which subscribers shall be entitled to cast one (1) vote on all matters on which that membership shall be entitled to vote.

ARTICLE V

EXISTENCE AND DURATION

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

ARTICLE VI

LOCATION

The principal office of the Association shall be located at 460 Sail Lane, Merritt Island, Brevard County, FL, 32953 but the Association may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Administration.



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ARTICLE VII

DIRECTORS

The affairs of the Association shall be managed by the Board of Administration. The number of members of the Board of Administration shall be three (3) until transfer of control of the Association to unit owners other than the Developer at which time the number of directors shall increase to five (5). The members of the Board or Administration shall be elected as provided by the By-Laws. The Board of Administration shall be members of the Association or shall be authorized representatives, officers or employees of a corporate member of this Association. Notwithstanding the foregoing, the first election of directors will be held in accordance with Article VI of the Declaration. Any vacancies in the Board of Administration occurring before the first election will be filled by the remaining directors, unless the vacancy occurs when both the Developer and unit owners other than the Developer are entitled to representation in which event the vacancy shall be filled by an election as provided in Rule 61B.23.001(12) Florida Administrative Code.

The names and addresses of the members of the first Board of Administration who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

Kohn Bennett	1000 Shorewood Drive Cape Canaveral, FL 32920
Brenda Bennett	1000 Shorewood Drive Cape Canaveral, FL 32920
Millie Wasdin	1000 Shorewood Drive Cape Canaveral, FL 32920

ARTICLE VIII

OFFICERS

The Board of Administration shall elect a President, a Secretary and a Treasurer and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Administration shall determine. The President shall be elected from among the membership of the Board of Administration but no other officer needs to be a director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, that the office of the President and Vice President shall not be held by the same person, nor shall the office of President, Secretary or Assistant Secretary be held by the same person.

The affairs of the Association shall be administered by the officers designated in the By-Laws of the Association. Said officers will be elected by the Board of Administration at its first meeting following the annual meeting of the members of the Association and with the approval of the Board of Administration, may employ a managing agent and/or such other managerial and supervisory personnel or entities to administer or assist in the administration of the operation and management of the condominium, and the affairs of the Association, and any such person or entity may be so employed without regard to whether such person or entity is a member of the Association or a director of the Association.



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The names and addresses of the officers who will serve until their successors are designated are as follows:

Kohn Bennett President	1000 Shorewood Drive Cape Canaveral, FL 32920
Brenda Bennett Vice President/Assistant Secretary	1000 Shorewood Drive Cape Canaveral, FL 32920
Millie Wasdin Vice President/Secretary/Treasurer	1000 Shorewood Drive Cape Canaveral, FL 32920

ARTICLE IX

SUBSCRIBERS

The names and addresses of the subscribers to these Articles of Incorporation are as follows:

Richard Amari, Esquire	96 Willard Street, Suite 302 Cocoa, Florida, FL 32923
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ARTICLE X

BY-LAWS

The original By-Laws of the Association shall be adopted by the Board of Administration and thereafter, such By-Laws may be altered or rescinded by the Board of Administration only in such manner as said By-Laws may provide.

ARTICLE XI

INDEMNIFICATION

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he/she may be a party, or in which he/she may become involved, by reason of he/she being or having been a director or officer of the Association, whether or not he/she is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his/her duties; provided, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Administration approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled. The intent of this indemnification is to afford protection to the Directors and Officers of the Association to the maximum extent allowed by law.



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ARTICLE XII

AMENDMENTS

Any amendment or amendments to these Articles of Incorporation may be proposed by the Board of Administration of the Association acting upon a vote of the majority of the directors, or by the members of the Association owning a majority of the condominium units in the condominium, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles being proposed by said Board of Administration or members, such proposed amendment or amendments shall be transmitted to the President of the Association or other officer of the Association in the absence of the President, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from the receipt by him of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting, stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed or presented personally to each member not less than ten (10) days nor more than thirty (30) days before the date set for such meeting. If mailed, the notice of the membership meeting shall be sent by certified mail, return receipt requested, which mailing shall be deemed notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the Owners of at least seventy-five (75%) percent of the total number of units in the condominium (i.e. 37 of 49 of the Unit Owners must vote for the amendment) in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of these articles shall be transcribed and certified in such form as may be necessary to register the same in the office of the Secretary of State of Florida; and upon the registration of such amendment or amendments with said Secretary of State, a certified copy thereof shall be recorded in the Public Records of Brevard County, Florida, within ten (10) days from the date on which the same are so registered. No amendment is valid until it is recorded in the Public Records. At any meeting held to consider such amendment or amendments of these articles, the written vote of any member of the Association shall be recognized, if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

Notwithstanding the foregoing provisions of this Article XII, no amendment or amendments to these articles which shall abridge, amend or alter the right of the Developer to designate and select members of each Board of Administration, as provided in Article VII hereof, may be adopted or become effective without the prior consent of the Developer.

ARTICLE XIII

DISSOLUTION

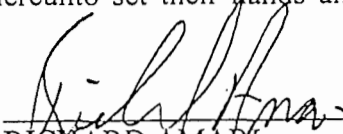
In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C-42.027, Florida Administrative Code, and be approved by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.



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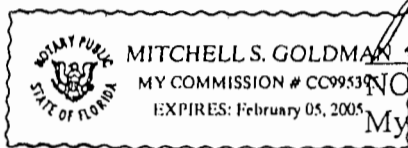
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IN WITNESS WHEREOF, the subscribers have hereunto set their hands and seals this day of March, 2004.


RICHARD AMARI

STATE OF FLORIDA)
COUNTY OF BREVARD)

BEFORE ME, the undersigned authority, personally appeared RICHARD AMARI, who being by me first duly sworn, acknowledged that he executed the foregoing Articles of Incorporation for the purposes therein expressed on this 22 day of March, 2004.


 NOTARY PUBLIC
My Commission Expires:

CERTIFICATE OF REGISTERED AGENT

Pursuant to Chapter 48.091, Florida Statutes, the following is submitted in compliance with said Act.

ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC., a corporation not for profit, desiring to organize under the laws of the State of Florida, with its principal office, as indicated in the Articles of Incorporation, in Merritt Island, County of Brevard, State of Florida, has named RICHARD AMARI, ESQ., 96 Willard Street, Suite 302, Cocoa, Florida, FL 32922, as its agent to accept service of process for the above-stated corporation, at the place designated in this certificate, and he hereby accepts to act in this capacity and agrees to comply with the provisions of said Act relative to keeping open said office.



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RICHARD AMARI

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TO BY-LAWS
OF
ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC.

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EXHIBIT D TO DECLARATION
EXHIBIT 3 TO THE PROSPECTUS

BY-LAWS

OF

ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC.

1. IDENTITY

These are the By-Laws of the ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC., a corporation not for profit under the laws of the State of Florida, the Articles of Incorporation of which were filed in the office of the Secretary of State on the ___ day of January, 2004. ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC., hereinafter called the Association, has been organized for the purpose of administering the operation and management of ISLAND POINTE, A CONDOMINIUM, a condominium project established or to be established in accordance with the Condominium Act of the State of Florida upon the following described property situate, lying and being in Merritt Island, Brevard County, Florida, to-wit:

SEE SHEET 2 OF EXHIBIT "A" ATTACHED HERETO AND INCORPORATED
HEREIN BY REFERENCE AND MADE A PART HEREOF

A. The provisions of these By-Laws are applicable to said condominium, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions and authorizations contained in the Articles of Incorporation (the "Articles of Incorporation") and which may be contained in the Declaration of Condominium of Island Pointe, A Condominium (the "Declaration") which will be recorded in the Public Records of Brevard County, Florida, at the time said property and improvements now or hereafter situate thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles of Incorporation and Declaration to be controlling wherever the same may be in conflict herewith.

B. All present and future owners, tenants, future tenants, or their employees, or any other person that might use said condominium or any of the facilities thereof in any manner, are subject to the regulations set forth in these By-Laws and in said Articles of Incorporation and the Declaration.

C. The mere acquisition or rental of any of the condominium units hereinafter referred to as "units" of the condominium or the mere act of occupancy of any said units will signify that these By-Laws, charter provisions, and regulations in the Declaration are accepted, ratified and shall be complied with.

D. The fiscal year of the Association shall be the calendar year.

E. The seal of the Association shall bear the name of the Association, the word "Florida", the words "a corporation not for profit", and the year of the filing of the Articles of Incorporation, an impression of which seal is as follows:

2. MEMBERSHIP, VOTING, QUORUM, PROXIES

A. The qualifications of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in Article IV of the Articles of Incorporation, the provisions of which Article IV of the Articles of Incorporation are incorporated herein by reference.

B. A quorum of membership meetings shall consist of persons entitled to cast a majority of the voting interests of the entire membership of the Association.



C. The vote of the owners of a condominium unit owned by more than one (1) person or by a corporation, partnership or other entity shall be cast by the person named in the voting certificate signed by all of the owners of the condominium unit filed with the Secretary of the Association, and such voting certificate shall be valid until revoked by a subsequent voting certificate. If such voting certificate is not on file or not produced at the meeting, the vote of such owners shall not be considered in determining the requirements for a quorum, nor for any other purpose.

D. Except as specifically otherwise provided herein, Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Land Sales, Condominiums and Mobile Homes. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with Florida Statutes, Section 718.112(2)(f) 2.; for votes taken to amend the Declaration pursuant to Section 718.110, Florida Statutes; for votes taken to amend the Articles of Incorporation or By-Laws pursuant to Section 718.112 (2)(b) 2., Florida Statutes; and for any other matter for which the Condominium Act requires or permits a vote of the Unit Owners. Except as provided in Section 718.112(2)(d), Florida Statutes, no proxy, limited or general, shall be used in the election of Board Members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this subparagraph, Unit Owners may vote in person at unit owner meetings. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the Unit Owner executing it.

E. Approval or disapproval of a condominium Unit Owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who would cast the vote of such owner if at an Association meeting.

F. Except where otherwise required under the provisions of the Articles of Incorporation, these By-Laws, the Declaration, or where the same may otherwise be required by law, the affirmative vote of the owners of a majority of the voting interests represented at any duly called membership meeting at which a quorum is present shall be binding upon the members.

G. "Voting interest" means the voting rights distributed to the Association members pursuant to Section 718.104(4)(j), Florida Statutes.

3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP

A. The annual membership meeting shall be held in February on a date, time and place to be designated each year by the Board of Directors for the purpose of electing directors or transacting any other business authorized to be transacted by the members.

B. Special membership meetings shall be held whenever called by the President or by a majority of the Board of Administration, and must be called by officers upon receipt of a written request from members of the Association owning a majority of the voting interests of the membership. The notice of any special meeting shall state the time and place of such meeting and the purposes thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the votes present, either in person or by proxy. See paragraphs 6.F and 4.A of these By-laws for special meeting requirements and procedures for budget meetings and recall of Board members.



Where a unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address which Developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the Association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the Association, or the manager or other person providing notice of the Association meeting, shall provide an Affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association affirming that the notice was mailed or hand delivered, in accordance with this provision, to each Unit Owner at the address last furnished to the Association.

C. Notice of all membership meetings, regular or special, shall be given by the President, Secretary or Treasurer of the Association, or other officer of the Association in the absence of said officers. Written notice, which notice must include an agenda, shall be mailed or hand delivered to each Unit Owner at least fourteen (14) days prior to the annual meeting and shall be posted in a conspicuous place on the Condominium property at least fourteen (14) continuous days preceding the annual meeting. Upon notice to the Unit Owners, the Board shall by duly adopted rule designate a specific location on the Condominium property or Association property upon which all notices of unit owner meetings shall be posted; however, if there is no Condominium property or Association property upon which notices can be posted, this requirement does not apply. Unless a Unit Owner waives in writing the right to receive notice of the annual meeting, such notice shall be hand delivered or mailed to each Unit Owner. Notice for meeting and notice for all other purposes shall be mailed to each Unit Owner at the address last furnished to the Association by the Unit Owner, or hand delivered to each Unit Owner. However, if a unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address which Developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the Association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the Association, or the manager or other person providing notice of the Association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association affirming that the notice was mailed or hand delivered, in accordance with this provision.

The Board of Administration shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board of Administration, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise except that Developer and Unit Owners other than Developer may vote by limited proxy to fill a vacancy on the Board caused by recall as provided by Rule 23.0026, Florida Administrative Code. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Unit Owner entitled to vote, a first notice of the date of the election. Any Unit Owner or other eligible person desiring to be a candidate for the Board of Administration shall give written notice to the secretary of the Association not less than forty (40) days before a scheduled election. Upon request of a candidate, the Association shall include an information sheet, no larger than 8 ½ inches by 11 inches, furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing or delivery and copying to be borne by the Association. The Division shall by rule establish voting procedures consistent with the provisions of Section 718.112(2)(d)3 Florida Statutes, including rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election of members of the Board of Administration. No Unit Owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid. A Unit Owner who needs assistance in casting the ballot for the reasons stated in Section 101.051, Florida Statutes, may obtain assistance in casting the ballot. Any Unit Owner violating this provision may be fined by the Association in accordance



with section 718.303, Florida Statutes. The regular election shall occur on the date of the annual meeting.

Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any membership meeting cannot be organized because the quorum has not attended, or because a greater percentage of the membership to constitute a quorum may be required as set forth in the Articles of Incorporation, these By-Laws or the Declaration, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. Adequate notice of all meetings, including adjourned meetings, shall be posted conspicuously on the Condominium property at least 48 continuous hours in advance except in an emergency. Unit Owners may waive notice of specific meetings and may take action by written agreement without meetings provided there is strict compliance with the percentage of voting interest required to make decisions and to constitute a quorum as provided in the Declaration, By-Laws and Articles of Incorporation.

D. At membership meetings, the President shall preside, or in his absence, the membership shall elect a chairman.

E. The order of business at annual membership meetings and, as far as practical at any other membership meetings, shall be:

- (1) collection of election ballots
- (2) calling of the roll and certifying of proxies
- (3) proof of notice of meeting or waiver of notice
- (4) reading of minutes
- (5) reports of officers
- (6) reports of committees
- (7) appointment of Chairman of Inspectors of Election
- (8) election of directors
- (9) unfinished business
- (10) new business
- (11) adjournment

F. Meetings of the Association shall be held at the principal office of the project or such other suitable place convenient to the owners as may be designated by the Board of Administration.

G. Any approval by Unit Owners called for by The Florida Condominium Act or the applicable Declaration or By-Laws, including, but not limited to, the approval requirement in Section 718.111(8), Florida Statutes, shall be made at a duly noticed meeting of Unit Owners and shall be subject to all requirements of the Condominium Act or the applicable condominium documents relating to Unit Owner decision making, except that Unit Owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable Declaration or By-Laws or any statute that provides for such action.

H. Unit Owners may waive notice of specific meetings if allowed by the applicable By-Laws or Declaration or any statute.

I. Unit Owners shall have the right to participate in meetings of Unit Owners with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner participation.



J. Any Unit Owner may tape record or videotape a meeting of the Unit Owners subject to any reasonable rules adopted by the Division.

K. Unless otherwise provided in the By-Laws, any vacancy occurring on the Board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a Board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of Section 718.112(2)(d)3, Florida Statutes unless the Association has opted out of the statutory election process, in which case the By-Laws of the Association control. Unless otherwise provided in the By-Laws, a Board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by Section 718.112(2)(j), Florida Statutes and rules adopted by the Division.

Notwithstanding Sections 718.112(2)(b) 2 and (d) 3, Florida Statutes, an Association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its By-Laws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

4. BOARD OF ADMINISTRATION AND OFFICERS

A. The Board of Administration shall consist of three (3) directors until transfer of control of the Association to Unit Owners other than Developer at which time the number of directors shall increase to five (5). Each director elected at the first annual meeting of the membership thereafter shall serve for the term of one (1) year or until his successor is duly elected.

Subject to the provisions of Section 718.301, Florida Statutes, any member of the Board of Administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests. A special meeting of the Unit Owners to recall a member or members of the Board of Administration may be called by ten percent (10%) of the voting interest giving notice of the meeting as required for a meeting of Unit Owners, and the notice shall state the purpose of the meeting.

(1) If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall will be effective as provided herein. The Board shall duly notice and hold a Board meeting within five (5) full business days of the adjournment of the Unit Owner meeting to recall one or more Board members. At the meeting, the board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records and property of the Association in their possession, or shall proceed as set forth in subparagraph (3).

(2) If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48 and the Florida Rules of Civil Procedure. The Board of Administration shall duly notice and hold a meeting of the Board within five (5) full business days after receipt of the agreement in writing. At the meeting, the Board shall either certify the written agreement to recall a member or members of the Board, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any



and all records and property of the Association in their possession, or proceed as described in subparagraph (3).

(3) If the Board determines not to certify the written agreement to recall a member or members of the Board, or does not certify the recall by a vote at a meeting, the Board shall, within five (5) full business days after the meeting, file with the Division a petition for arbitration pursuant to the procedure in Section 718.1255, Florida Statutes. For the purposes of this section, the Unit Owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the board, the recall will be effective upon mailing of the final order of arbitration to the Association. If the Association fails to comply with the order of the arbitrator, the Division may take action pursuant to Section 718.501, Florida Statutes. Any member or members so recalled shall deliver to the board any and all records of the Association in their possession within five (5) full business days of the effective date of the recall.

(4) If the Board fails to duly notice and hold a Board meeting within five (5) full business days of service of an agreement in writing or within five (5) full business days of the adjournment of the Unit Owner recall meeting, the recall shall be deemed effective and the Board members so recalled shall immediately turn over to the Board any and all records and property of the Association.

(5) If a vacancy occurs on the Board as a result of a recall and less than a majority of the Board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection. If vacancies occur on the Board as a result of a recall and a majority or more of the Board members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the Division, which rules need not be consistent with Section 718.112(2)(j), Florida Statutes. The rules must be provided procedures governing the conduct of the recall election as well as the operation of the Association during the period after a recall but prior to the recall election.

Developer is entitled to elect or appoint at least one (1) member of the Board of Administration of the Association as long as Developer holds for sale in the ordinary course of business five percent (5%) of the units in the condominium operated by the Association.

B. Election of directors shall be conducted in the following manner:

(1) Each member of the Board of Administration shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association.

(2) Vacancies in the Board of Administration may be filled until the date of the next annual meeting by the majority vote of the remaining directors unless the vacancy occurs when both Developer and Unit Owners other than Developer are entitled to representation in which event the vacancy shall be filled by an election as provided in rule 61B-23.0026, Florida Administrative Code.

C. The organizational meeting of a newly elected Board of Administration shall be held within ten (10) days of their election, at such time and such place as shall be fixed by the directors at the meeting at which they were elected, and notice of the organizational meeting shall be conspicuously posted on the Condominium property at least forty-eight (48) continuous hours in advance.



D. The officers of the Association shall be elected annually by the Board of Administration. Any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Administration, or any special meeting of the Board called for such purpose.

E. Regular meetings of the Board of Administration may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings shall be given to each director, personally or by mail, telephone or telegram at least ten (10) days prior to the day named for such meeting, unless notice is waived. These meetings shall be open to all Unit Owners and notice of the meeting shall be posted conspicuously on the Condominium property forty-eight (48) continuous hours in advance, except in an emergency. Notice of any meeting where assessments against Unit Owners are to be considered for any reason, shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

F. Special meetings of the directors may be called by the President, and must be called by the Secretary at the written request of three (3) directors. Not less than three (3) days notice of a meeting shall be given to each director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting. Notice to Unit Owners shall be given in accordance with subparagraph E above.

G. Any director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting. Notice to Unit Owners shall be given in accordance with subparagraph E above.

A director of the Association who is present at a meeting of its Board at which action is taken on any corporate matter shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. Directors may not vote by proxy or by secret ballot at Board Meetings. A vote or abstention for each member present shall be recorded in the minutes.

H. A quorum of a directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at the meeting at which a quorum is present shall constitute the act of the Board of Directors, except as specifically otherwise provided in the Articles of Incorporation, these By-Laws or the Declaration. If any directors' meeting cannot be organized because a quorum has not attended, or because the greater percentage has not attended, whenever the latter percentage of attendance may be required, the directors who are present may adjourn the meeting from time to time until a quorum or the required percentage attendance, if greater than a quorum, is present. Meetings of the Board of Administration and any committee thereof at which a quorum of the members of that committee are present shall be open to all Unit Owners except that meetings of a committee that does not take final action on behalf of the Board or make recommendations to the Board regarding the Association budget shall not be open to all Unit Owners and does not require notice to the Unit Owners as provided in Section 718.112 (2)(c), Florida Statutes. Any Unit Owner may tape record or videotape meetings of the Board of Administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The Division of Florida Land Sales, Condominiums and Mobile Homes shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The Association may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner statements. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium



property at least forty-eight (48) continuous hours preceding the meeting except in an emergency. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use will be proposed, discussed, or approved, shall be mailed or delivered to the Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) continuous days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be made by an affidavit executed by the secretary and filed among the official records of the Association. Upon notice to the Unit Owners, the Board shall by duly adopted rule designate a specific location on the Condominium property upon which all notices of Board meetings shall be posted. Notice of any meeting in which regular assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. At any adjourned meeting, any business, which might have been transacted at the meeting as originally called, may be transacted. A member of the Board of Directors or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

I. The presiding officer of directors' meetings shall be the President. In the absence of the President, the Vice-President shall preside.

J. The directors' fees, if any, shall be determined by the members.

K. The operation of the condominium shall be by the Association. The Board of Administration shall exercise those powers and duties permitted by the common law and statutes, the Articles of Incorporation, these By-Laws and the Declaration. Such powers and duties shall be exercised in accordance with the Articles of Incorporation, these By-Laws and the Declaration, and shall include, without limiting the generality of the foregoing, the following:

- (1) To make, levy and collect assessments against members and members' units to defray the costs of the condominium, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association. Assessments shall be made against units annually.
- (2) The maintenance, repair, replacement, operation and management of the condominium wherever the same is required to be done and accomplished by the Association for the benefit of its members.
- (3) The reconstruction of improvements after casualty, and further improvement of the property, real and personal.
- (4) To make and amend regulations governing the use of the property, real and personal, and the common elements of the condominium, so long as such regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Declaration.
- (5) To acquire, operate, lease, manage and otherwise trade and deal with property, real and personal, including condominium units in the condominium, as may be necessary or convenient in the operation and management of the condominium, and in accomplishing the purposes set forth in the Declaration.
- (6) To contract for the maintenance and management of the condominium and to authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of the records, enforcement of rules, and maintenance of the common



elements. The Association shall, however, retain at all times the powers and duties granted them by the Condominium Act, including, but not limited to, the making of assessments, promulgation of rules, and execution of contracts on behalf of the Association.

(7) To enforce by legal means the provisions of the Articles of Incorporation and By-Laws, the Declaration and any regulations hereinafter promulgated governing use of the property in the condominium.

(8) To pay all assessments and taxes which are liens against any part of the condominium other than condominium units and the appurtenances thereto.

(9) To carry insurance for the protection of the members and the Association against casualty and liability.

(a) The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association property, the common elements, and the Condominium property required to be insured by the Association pursuant to paragraph (b). The Association shall use its best efforts to obtain and maintain liability insurance for directors and officers at a reasonable cost, insurance for the benefit of Association employees, and flood insurance for common elements, Association property, and units. An Association or group of Associations may self-insure against claims against the Association, the Association property, and the Condominium property required to be insured by an Association, upon compliance with Florida Statute Sections 624.460-624.488. A copy of each policy of insurance in effect shall be made available for inspection by Unit Owners at reasonable times.

(b) All hazard policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installation or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors and ceiling of the individual units initially installed or replacements thereof, or like kind or quality in accordance with the original plans and specifications or as existed at the time the unit was initially conveyed if the original plans and specifications are not available. However, the word "building" shall not include unit floor coverings, wall coverings or ceiling coverings, and does not include the following equipment if it is located within a unit and the Unit Owner is required to repair or replace such equipment; electrical fixtures, appliances, air conditioner or heating equipment, water heaters, or built-in cabinets. With respect to the coverage provided for by this paragraph, the Unit Owners shall be considered additional insureds under the policy.

(10) To pay all costs of power, water, sewer and other utility services rendered to the condominium and not billed to the owners of the separate condominium units.

(11) To employ personnel to perform the services required for proper administration of the Association.

(12) To approve leases, subleases or other transfers of a unit other than sales or mortgage of a unit and to charge a fee for such approval. Any such fee may be preset, but in no event shall exceed fifty (\$50.00) dollars. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made.

(13) Internal disputes arising from the operation of the condominium among Unit Owners, Associations, and their agents and assigns shall be submitted to mandatory nonbinding arbitration as provided for in Section 718.1255, Florida Statutes.

(14) A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Board as evidence of compliance of the Condominium units to the applicable Fire and Life Safety Code.

(15) To levy fines against the Unit Owners, occupants, licensee or invitees for failure to abide by any provision of the Declaration, these By-Laws or rules of the Association. The following procedure shall be followed prior to the Association levying any fine:

(a) The Unit Owner and, if applicable, the occupant, licensee or invitee against whom the fine is sought to be levied shall be afforded an opportunity for hearing before a committee of not less than three other Unit Owners, none of whom shall be a director, after reasonable notice of not less than fourteen (14) days and said notice shall include:

(1) a statement of the date, time and place of hearing;

(2) a statement of the provisions of the Declaration, Association By-Laws, or Association rules which have allegedly been violated; and

(3) a short and plain statement of the matters asserted by the Association.

(b) The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

(c) No fine shall become a lien against a unit. No fine may exceed \$100 per violation. However, a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided that no such fine in the aggregate shall exceed \$1,000. If the committee does not agree with the fine, the fine may not be levied. The provisions of this subsection do not apply to unoccupied units.

L. The undertakings and contracts authorized by the said first Board of Administration shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board of Administration duly elected by the membership, provided any such undertakings and contracts shall be fair and reasonable and may be cancelled by Unit Owners other than Developer as provided in section 718.302 (1), Florida Statutes.

5. OFFICERS

A. The principal officers of the Association shall be a President, a Secretary and a Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Administration may deem necessary.

B. The President shall be the chief officer of the Association. He shall preside at all meetings of the Association and of the Board of Administration. He shall have all of the general powers and duties which are usually vested in the office of president of an



Association, including, but not limited to, the power to appoint committees from among the owners, from time to time as he may in his discretion decide is appropriate, to assist in the conduct of the affairs of the Association.

C. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Administration shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon by the Board of Administration.

D. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and service of all notices of the members and Directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep records of the Association, its administration and salaries.

E. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidence of indebtedness. He shall keep the books of the Association in accordance with good accounting practices.

F. The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Administration from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the condominium.

6. FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Declaration and Articles of Incorporation shall be supplemented by the following provisions:

A. The Association shall maintain accounting records for each condominium it manages in the county where the condominium is located, according to good accounting practices. The records shall be open for inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually to Unit Owners or their authorized representatives. The records shall include, but are not limited to:

- (1) a record of all receipts and expenditures;
- (2) an account for each unit designating the name and current address of the Unit Owner, the amount of each assessment, the date on which the assessments come due, the amount paid upon the account and the balance due.

B. The Board of Administration shall adopt a budget for each fiscal year which shall contain estimates of the cost of performing the functions of the Association, including but not limited to the common expense budget, which shall include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance, and operation of common elements and limited common elements, landscaping, streets and walkways, office expenses, utility services, replacement and operating reserve, casualty insurance, liability insurance, administration and salaries. The Board of Administration shall also establish the proposed assessment against each member as more fully provided in the Declaration. Delivery of a copy of any budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget originally adopted if it shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.



(1) The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in Section 718.504(21), Florida Statutes. A multicondominium Association shall adopt a separate budget of common expenses for each condominium the Association operates and shall adopt a separate budget of common expenses for each condominium the Association operates. In addition, if the Association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in Section 718.113(1), Florida Statutes, the budget or schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the Association to the Unit Owners, any of the expenses listed in Section 718.504(21), Florida Statutes, are not applicable, they need not be listed.

(2) In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved shall be computed by means of a formula, which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessment annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in which the members of an Association have determined by a majority vote at a duly called meeting of the Association, to provide no reserves or less reserves than required by this subsection. However, prior to turnover of control of an Association by a developer to Unit Owners other than a developer pursuant to Section 718.301, Florida Statutes, Developer may vote to waive the reserves or reduce the funding of reserves for the first two (2) fiscal years of the Association's operation, beginning with the fiscal year in which the initial Declaration is recorded, after which time reserves may be waived or reduced only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the Association. If a meeting of the Unit Owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect. After the turnover, Developer may vote its voting interest to waive or reduce the funding of reserves.

(3) Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the Association. Prior to turnover of control of an Association by a developer to Unit Owners other than Developer pursuant to Section 718.301, Florida Statutes, the Developer-controlled Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

C. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by check signed by such person or persons as are authorized by the Directors.



D. A review of the accounts of the Association shall be made annually by an accountant and a copy of the report shall be furnished to each member not later than May 1 of the year following the year for which the report is made.

E. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association in the principal sum required by Section 718.111.(11)(d), Florida Statutes for each person. The Association shall bear the cost of bonding. All such persons providing management services to the Association shall provide the Association with a certificate of insurance evidencing compliance with this Section E.

F. Any meeting at which a proposed annual budget of an Association will be considered by the Board or Unit Owners shall be open to all Unit Owners. At least fourteen (14) days prior to such a meeting, the Board shall hand deliver to each Unit Owner, or mail to each Unit Owner at the address last furnished to the Association by the Unit Owner, a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the Association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement and such affidavit shall be filed among the official records of the Association.

If the Board adopts in any fiscal year an annual budget which requires assessments against Unit Owners which exceed one hundred fifteen percent (115%) of assessments for the preceding fiscal year, the Board shall conduct a special meeting of the Unit Owners to consider a substitute budget if the Board receives, within twenty-one (21) days after adoption of the annual budget, a written request for a special meeting from at least ten percent (10%) of all voting interest. The special meeting shall be conducted within sixty (60) days after adoption of the annual budget. At least fourteen (14) days prior to such special meeting, the Board shall hand deliver to each Unit Owner, or mail to each Unit Owner at the address last furnished to the Association, a notice of the meeting. An officer or manager of the Association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement and such affidavit shall be filed among the official records of the Association. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the By-Laws require adoption by a greater percentage of voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the Board shall take effect as scheduled.

Any determination of whether assessments exceed one hundred fifteen percent (115%) of assessments for the prior fiscal year shall exclude any authorized provision for reasonable reserves for repair or replacement of the Condominium property, anticipated expenses of the Association which the Board does not expect to be incurred on a regular or annual basis, or assessments for betterments to the Condominium property.

If Developer controls the Board, assessments shall not exceed one hundred fifteen percent (115%) of assessments for the prior fiscal year unless approved by a majority of all voting interests.

G. FINANCIAL REPORTING. Within ninety (90) days after the end of the fiscal year, or annually on a date on or before May 1, the Association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the preceding fiscal year. On or before May 1 of each year after the financial report is completed or received by the association from the third party, the Association shall mail to each Unit Owner at the address last furnished to the Association by the Unit Owner, or hand deliver to each Unit Owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the Unit Owner, without charge, upon receipt of a written request from the Unit Owner. The Division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations



and shall adopt rules addressing financial reporting requirements for multicondominium associations. In adopting such rules, the Division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An Association that meets the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements shall be based upon the Association's total annual revenues, as follows:

1. An Association with total annual revenues of \$100,000 or more, but less than \$200,000, shall prepare compiled financial statements.
2. An Association with total annual revenues of at least \$200,000 or more, but less than \$400,000, shall prepare reviewed financial statements.
3. An Association with total annual revenues of \$400,000 or more, shall prepare audited financial statements.
4. An Association with total annual revenues of less than \$100,000 shall prepare a report of cash receipts and expenditures.
5. An Association which operates less than fifty (50) units, regardless of the Association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a).

(b) A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures deferred maintenance, and any other category for which the Association maintains reserves.

(c) An Association may prepare or cause to be prepared, without a meeting of or approval by the Unit Owners:

1. compiled, reviewed, or audited financial statements, if the Association is required to prepare a report of cash receipts and expenditures;
2. reviewed or audited financial statements, if the Association is required to prepare compiled financial statements; or
3. audited financial statements if the Association is required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the Association, an Association may prepare or cause to be prepared:

1. a report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;
2. a report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or



3. a report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. With respect to an Association to which Developer has not turned over control of the Association, all Unit Owners, including Developer, may vote on issues related to the preparation of financial reports for the first two (2) fiscal years of the Association's operation, beginning with the fiscal year in which the Declaration is recorded. Thereafter, all Unit Owners except Developer may vote on such issues until control is turned over to the Association by Developer.

7. PARLIAMENTARY RULES

Robert's Rules of Order (latest edition) shall govern the conduct of the corporate meetings when not in conflict with the Articles of Incorporation and these By-Laws or with the Statutes of the State of Florida.

8. AMENDMENTS TO BY-LAWS

Amendments to these By-Laws shall be proposed and adopted in the following manner:

- A. Amendments to these By-Laws may be proposed by the Board of Administration of the Association acting upon the vote of a majority of the Directors, or by ten percent (10%) of the voting interests of the Association, whether meeting as members or by instrument in writing signed by them.
- B. Upon any amendment or amendments to these By-Laws being proposed by said Board of Administration or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a special joint meeting of the members of the Board of Administration of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as herein set forth.
- C. In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of a majority of (3 of 5 members) the entire membership of the Board of Administration and by an affirmative vote of the Owners of at least seventy-five percent (75%) of the total number of units in the condominium (i.e. 37 of the 49 Unit Owners must vote for the amendment). No By-Law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be amended; new words shall be inserted in the text and underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but instead a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Law. See By-Law . . . for present text." Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of Brevard County, Florida, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the Directors and members. No amendment to the By-Laws is valid unless recorded with identification on the first page thereof of the book and page of



the Public Records of Brevard County, Florida. Non-material errors or omissions in the by-law process shall not invalidate an otherwise properly promulgated amendment.

D. At any meeting held to consider such amendment or amendments to the By-Laws, the written vote of any member of the Association shall not be recognized if such member is not in attendance at such meeting or represented thereat by proxy.

9. OFFICIAL RECORDS OF THE ASSOCIATION. Records of the Association shall be maintained as follows:

A. From the inception of the Association, the Association shall maintain each of the following items, when applicable, which shall constitute the official records of the Association:

- (1) A copy of the plans, permits, warranties, and other items provided by Developer pursuant to Section 718.301(4), Florida Statutes.
- (2) A photocopy of the recorded Declaration of each condominium operated by the Association and of each amendment to each Declaration.
- (3) A photocopy of the recorded By-Laws of the Association and of each amendment to the By-Laws.
- (4) A certified copy of the Articles of Incorporation, or other documents creating the Association, and of each amendment thereto.
- (5) A copy of the current rules of the Association.
- (6) A book or books which contain the minutes of all meetings of the Association, of the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than seven (7) years.
- (7) A current roster of all Unit Owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers.
- (8) All current insurance policies of the Association and condominiums operated by the Association.
- (9) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.
- (10) Bills of sale or transfer for all property owned by the Association.
- (11) Accounting records for the Association and separate accounting records for each condominium, which the Association operates. All accounting records shall be maintained for a period of not less than seven (7) years. The accounting records shall include, but not be limited to:
 - (a) accurate, itemized, and detailed records of all receipts and expenditures;
 - (b) a current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due;



(c) all audits, reviews, accounting statements, and financial reports of the Association or condominium;

(d) all contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

(12) Ballots, sign-in-sheets, voting proxies, and all other papers relating to elections, which shall be maintained for a period of one (1) year from the date of the meeting to which the document relates.

(13) All rental records, when the Association is acting as agent for the rental of condominium units.

(14) A copy of the current Question and Answer Sheet as described by Section 718.504, Florida Statutes.

(15) All other records of the Association not specifically included in the foregoing which are related to the operation of the Association.

B. The official records of the Association shall be maintained within the State of Florida. The records of the Association shall be made available to a Unit Owner within five (5) working days after receipt of written request by the Board or its designee.

C. The official records of the Association are open to inspection by any Association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an Association to provide the records within ten (10) working days after receipt of a written request shall create a rebuttable presumption that the Association willfully failed to comply with this paragraph. A Unit Owner who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this paragraph. The minimum damages shall be \$50.00 per calendar day up to ten (10) days, the calculation to commence on the 11th working day after receipt of the written request. The failure to permit inspection of the Association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records for inspection. The Association shall maintain an adequate number of copies of the Declaration, Articles of Incorporation, By-Laws, and Rules, and all amendments to each of the foregoing, as well as the Question and Answer Sheet provided for in Section 718.504, Florida Statutes and year end financial information required in Section 714.111(13), Florida Statutes, on the Condominium property to ensure their availability to Unit Owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. Notwithstanding the provisions of this paragraph, the following records shall not be accessible to Unit Owners:

1. Any record protected by the lawyer-client privilege as described in Section 90.502, Florida Statutes, and any record protected by the work-product privilege including any record prepared by an Association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceeding until the conclusion of the litigation or adversarial administrative proceedings.



2. Information obtained by an Association in connection with the approval of the lease, sale, or other transfer of a unit.
3. Medical records of Unit Owners.

D. The Association shall prepare a Question and Answer Sheet as described in Section 718.504, Florida Statutes, and shall update it annually.

E. The Division of Florida Land Sales, Condominiums and Mobile Homes may adopt rules which may require that the Association deliver to the Unit Owners, in lieu of the financial report required by Section 718.111(13), Florida Statutes, a complete set of financial statements for the preceding year. The financial statements shall be delivered within ninety (90) days following the end of the previous fiscal year or annually on such other date as provided by the By-Laws. The rules of the Division may require that the financial statements be compiled, reviewed, or audited. The requirement to have the financial statements compiled, reviewed, or audited does not apply to Associations when a majority of the voting interests of the Association present at a duly called meeting of the Association have determined for a fiscal year to waive this requirement. In an Association in which turnover of control by Developer has not occurred, Developer may vote to waive the audit requirement for the first two (2) years of the operation of the Association, after which time waiver of an applicable audit requirement shall be by a majority of voting interests other than Developer. The meeting shall be held prior to the end of the fiscal year, and the waiver shall be effective for only one (1) fiscal year.

F. COMMINGLING. All funds collected by an Association shall be maintained separately in the Association's name. For investment purposes only, reserve funds may be commingled with operating funds of the Association. Commingled operating and reserve funds shall be accounted for separately and a commingled account shall not, at any time, be less than the amount identified as reserve funds. This subsection does not prohibit a multicondominium association from commingling the operating funds of separate condominiums or the reserve funds of separate condominiums. Furthermore, for investment purposes only, a multicondominium association may commingle the operating funds of separate condominiums with the reserve funds of separate condominiums. A manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, or an agent, employee, officer, or director of an Association, shall not commingle any Association funds with his or her funds or with the funds of any other condominium association or the funds of a community association as defined in Section 468.431, Florida Statutes.

THE UNDERSIGNED, being the Secretary of ISLAND POINTE CONDOMINIUM ASSOCIATION OF MERRITT ISLAND, INC., a corporation not for profit under the laws of the State of Florida, does hereby certify that the foregoing By-Laws were adopted as the By-Laws of said Association at a meeting held for such purpose on the _____ day of _____, 200_____.

SECRETARY

Millie Wasdin

